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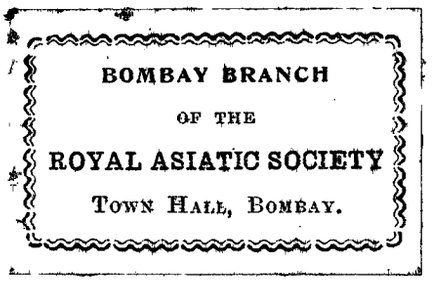

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S.r THOMAS WENTWORTH K.t EARLE of STRAFFORDE,
Viscount Wentworth, Baron of Wentworth, Wood-
house, Newmarch, Oversley & Raby, L.d Lieutenant Generall,
and Generall Governor of the Kingdome of Ireland; and L.d
President of ij Councill established in ij North parts of England
L.d Lieutenant of ij County & City of York & one of his Ma.ties most hon.ble
Privy Councill, and Knight of ij most Noble order of the Garter:

THE TRYAL OF Thomas Earl of Strafford, Lord Lieutenant of IRELAND,

Upon an

Impeachment of High Treason

BY

The COMMONS Assembled in PARLIAMENT,

In the Name of Themselves, and of

All the Commons of England,

Begun in *Westminster-Hall* the 22 of *March* 1640:

And Continued before Judgment was Given until the 10th of *May* 1641.

Shewing the Form of PARLIAMENTARY *Proceedings in an* IMPEACHMENT *of* TREASON.

To which is Added,

A short Account of some other Matters of Fact transacted in Both Houses of PARLIAMENT, Precedent, Concomitant and Subsequent to the Tryal: With some Special Arguments in Law relating to a *Bill* of *Attainder*.

Faithfully Collected, and Impartially Published,

Without Observation *or* Reflection,

By *JOHN RUSHWORTH* of *Lincolnes-Inn*, Esq;

The Second Edition.

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LONDON,

Printed for Ri. Chiswell, in St. *Paul's* Church-Yard, M. Wotton, in *Fleet-street*, and G. Conyers, in *Little-Britain*. 1700.

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To the Right HONOURABLE

GEORGE

EARL OF

HALIFAX;

One of His Majeſties moſt-Honourable

PRIVY COUNCIL.

My LORD,

NO Man (I believe) underſtands better than your Lordſhip, the Intereſt and Concern that Poſterity hath, in a true account of all matters of moment, that were tranſacted by their Anceſtors; and I know none in whoſe Devotion, to the ſervice of the King and Kingdom, I could ſo confide, as in your

Lordſhips,

Lordſhips, to Patronize this plain and full Relation of the Proceedings in Parliament, in the Caſe of the greateſt Miniſter of State, in his time.

I ſome times doubted that the Dedication of theſe Papers to your Lordſhip, might be improper, becauſe of your Lordſhips Deſcent from the Siſter of that great Perſonage, whoſe unhappy Fate is here related. But having well conſidered, that Honor, Truth, and Juſtice, have the Supreme Empire in your truly Noble Soul; and that a full and clear Narrative of all the Matters of Fact, that occurred in this great Affair, with the Intentions and Conſtructions of them, as declared from the mouth of your Noble Anceſtor himſelf, *is the faireſt and juſteſt way to repreſent* him truly to future Ages; I conceived it not unfit for your Lordſhip to favour this true Account of him, *which may protect his Name from the injuries, both of Ignorance and Malice.*

I ought not, neither can I flatter your Lordſhip; you are too well known to need any thing that can be ſaid by me of your Worth and true Nobleneſs; and the Character of this your Anceſtor is beſt to be collected from the following Papers. His Letters publiſhed by me in the Second Part of my *Hiſtorical Collections*, and his Behaviour in this ſolemn Tryal

al here publiſhed, diſcovers the greatneſs of his Parts, the quickneſs of his Apprehenſion, the excellence of his Wit and Eloquence, the contempt he had of Death, and the ſerene Compoſure of his mind in that Part of his Life, which falls within this Hiſtory,

I ſhould not have dared to preſent this Work to yõur Lordſhip, ſo nearly related to this eminent Miniſter of State, if I had not been a Witneſs to all the ſteps of the proceeding in this great Action, and if I had not taken in Characters, as well and truly; all that was ſaid for him, as what his Accuſers ſaid againſt him; and therefore I can with great aſſurance aver it to be a candid Repreſentation of Matter of Fact, which is all I *pretend to publiſh* to the World: and as far as the exacteſt care could carry me, I have done it ſo punctually true, that I am hopeful there is none can have any juſt Exception to any part of it. My Lord, There is none alive can judge of a Work of this nature better than your ſelf, who as you are deſcended from a Race of Stateſmen, being Nephew and Grandſon to the Two chief Miniſters of the laſt age, this Great Earl, and the Wiſe and Fortunate Lord Keeper *Coventry*, ſo are you lookt on by all, as a Perſon born for the Service of the KING, *and the* publick good of your Countrey: And as I have always had a conſtant

ſtant Experience of your Goodneſs and Indulgence to my ſelf, ſo I humbly hope your Lordſhip will favourably conſtrue my intentions in this Dedication, and accept of it as a tribute of Duty and Acknowledgement humbly offered by

May it pleaſe your Lordſhip,

March 25.
1680.

Your Lordſhips moſt Humble,

Moſt Faithful, and

Moſt obliged Servant,

JO. RUSHWORTH.

THE
PREFACE.

I *Cannot think that there wants an Apology for publiſhing the enſuing Papers, although the Preſs ſeems over-charged.*

The Trial of Thomas *Earl of* Strafford, *was, and is, ſome way or other, the Concern of every Man of* England; *and the Commiſſioners of* Scotland *and* Ireland, *thought thoſe Kingdoms alſo Sufferers by his Deportment, and joyned in the Proſecution againſt him.*

All the Commons of England *by their Deputies in Parliament were his Accuſers, and the Impeachment againſt him was in their Names.*

The Matter of his Charge had Reference to every Engliſh Man, and all their Poſterities; He was accuſed of deſigning to deſtroy the ſecurity of every of their Eſtates, Liberties and Lives, and to reduce them all to be ſubject to meer Will and Pleaſure.

It may therefore be ſaid in the Maxim of our Government, not much varying the ſenſe, Quod Omnes tangit, ab omnibus tractari debet. *Every man ought doubtleſs to know his own Caſe, to underſtand whether that Great Man was juſtly accuſed of ſuch a hainous Crime; and whether the Kingdom eſcaped ſuch a fatal blow, as was then alledged by his exemplary Fall, under the Judgment of the King and Parliament;*

For this purpoſe I expoſe to the common view, the whole Proceedings of his Tryal, being the moſt ſolemn, deliberate, and every way, the greateſt Tryal, whereof we have any Account in our Engliſh Story.

The Preparations for his Tryal were made with an unuſual ſolemnity, and were the Reſults of the Prudence of many ſelected Lords and Commons, as a Committee of both Houſes.

The uſual places for Adminiſtring Juſtice, and Tryals of Offenders, were thought too mean upon ſo great an occaſion, and therefore Scaffolds were erected in Weſtminſter-Hall, *fit to receive ſo great an Aſſembly, as were to attend his Tryal.*

His Majeſty had a Cloſet provided for him, the Queen and Prince near the place, where the Houſe of Peers ſate, and was every day at the Tryal of the ſaid Earl, and might hear what was ſaid, and ſee what Witneſſes were produced, and take a full view of the greatneſs of the Aſſembly, and yet remain privately in His Cloſet unſeen. Seats were prepared for the Lord High Steward, and all the Houſe of Lords, who ſate as his Judges; Wool-ſacks were placed for all the Juſtices or Judges to be their Aſſiſtants: There were alſo Seats provided for all the Commons in Parliament, though they came not with their Speaker and his Mace, as a Houſe of Parliament, but as a Committee of the whole Houſe; Seats were likewiſe prepared for the Commiſſioners of the Kingdom of Scotland *and* Ireland, *which made it an Aſſembly of Three Kingdoms.*

At the lower end of the Scaffolds, a place was provided for Thirteen Members of the Houſe of Commons, *who were appointed for the Earls Proſecutors, to manage the Evidence againſt him; near to them ſtood the Priſoner with a Table before him, and a Desk to write upon, and a Chair was ſet for him to reſt himſelf when he found it needful.*

The Author of the enſuing Papers was purpoſely placed near the Earl, to take in Characters whatſoever ſhould be ſaid, either againſt or for him, and to the beſt of his skill, he did impartially put in Writing what was ſaid in the Caſe Pro *and* Con; *he hath not wittingly or willingly omitted the leaſt Particle ſaid in the Priſoners Defence, either by himſelf or any body in his behalf; he hath not varied the form or manner of his Expreſſions, being full of Eloquence, and pleaſing Rhetorick, and excellently adapted to move compaſſion, both in his Judges, and the numerous Aſſembly of Auditors.*

The Greatneſs of this Miniſter of State's Tryal every way anſwered the High Station and Employments, unto which he had been advanced; and the lofty Deſignes he had managed. And the Books of his Life, from the time of his admiſſion in the Cabinet of his

Princes

Princes Council, were expoſed to the Worlds View and the moſt profound Learning of the Laws of our Countrey, the ſharpeſt Wit, and the deepeſt wiſdom of our Kingdom were employed to examine and meaſure what he had done. Not only by thoſe Rules of Juſtice, whereby all our ordinary Courts of Juſtice are wiſely bound by our Anceſtors, to proceed in the Trial of Criminals, but by thoſe Fundamental Rules, and Maxims of our Engliſh Government, which that Parliament aſſerted to be the ſafeguard, both of the King and People, and to be ſo reſerved in the cuſtody of the Supream Legiſlative Power, that no Criminals, by the violation of thoſe Firſt Principles, which they ſaid gave the Being to our Government, can be judged otherwiſe than in Parliament, the ordinary Judges being obliged by that famous Statute of the 25th *of* Edw. 3. *concerning Treaſons, to* Reſpit *Judgment in all ſuch Caſes, until the matter be declared in Parliament, and Judgment there given; whether the offence whereof any ſhall be accuſed, be Treaſon, or other Felony.*

This Tryal being upon an Impeachment for Treaſons, not ſpecially named and declared in the Statute of the 25th Edw. III. *occaſioned more induſtrious and exquiſite ſearches to be made into the moſt antient Records of the Kingdom, than had been for ſome hundreds of Years, and alſo cauſed the moſt Learned of the Long Robe to tumble over their Law-Books, and to apply their minds to look into the bowels of our antient Laws, and the reaſon of them, from whence they had their Being, and doubtleſs the Counſel on either ſide brought out of their moſt ſecret Treaſuries, the quinteſcence of all their Learning and Studies; beſides the weight of the Cauſe, every mans Reputation puſhed him to ſhew his utmoſt skill before ſo great and ſo grave an Aſſembly of ſuch Critical and excellent Judges and Auditors.*

The Reader may find in theſe Papers all the ſweetneſs of Learning, Wiſdom, and Policy, which was the iſſue of the long Labours and Travels of many induſtrious Bees, in the whole ſpring of their youth and vigor.

The long continuance of this Trial, is another Evidence of its greatneſs; it begun the 22 *of* March 1640, *and continued with the interpoſition of divers Intervals, for deliberation, and providing Evidence, until the* 12th *of* April 1641. *And an* ACT *for Judgment in a Bill of* Attainder, *paſſed againſt the Earl in the Houſe of* Commons *the* 21 *of the ſame month, and in the Houſe of Peers on the* 10th *of* May *following.*

I ought not to anticipate the Reader with any thing that happened during this ſolemn Tryal, nor to point at matter of Law or Fact; every Reader ought to ſuppoſe himſelf preſent at the Tryal, and to make his own Comments upon the Law and Fact, as it appeared; every Profeſſor or Student of the Law may tranſcribe into his Common-place-Book, what he ſhall judge of moſt uſe, and every States-man may do the like in his Studies; and every Man great and ſmall, may, if he pleaſe, make excellent Moral Reflections upon the Riſe, Greatneſs, and fall of this ſeeming Fortunate, and yet at laſt Unfortunate Gentleman.

See Hiſtorical Collections *the Firſt Part. Page* 500.

This Great Man's principal Crime, objected againſt him by the Parliament, was his attempts to ſubvert that excellent Law called The Petition of Right, *which he himſelf (eſpecially in a Speech made by him in Parliament on) the* 22 *of* March, *in the year* $162\frac{7}{8}$ *had promoted and preſſed with the moſt ardent Zeal, as the beſt Inheritance he could leave his Poſterity, and all the Laws confirmed and renewed in that* Petion of Right, *were ſaid to be the moſt invenomed Arrows that gave him his mortal wound; but how juſtly theſe were urged againſt him, is not my part to determine.*

I wiſh my Labours in Collecting truly the Matter of Fact, may be an occaſion to many, to make True and Righteous Judgment in this particular Caſe ſo much Controverted, and that from theſe Matters of Law and Fact, ſuch right meaſure may be taken, that all our future Miniſters of State may eſcape the conjoyned Complaints of the Three Kingdoms againſt them: and that the Government may be ſo Adminiſtred, as ſhall beſt conduce to the happineſs of the King and Kingdom.

An Introductive Account *of ſeveral Paſſages previous to the* GRAND TRYAL *of* Thomas *Earl of* Strafford, *who was Impeached by the* Houſe of Commons *on the* 11th *of* November, 1640. *As alſo of Paſſages and Proceedings in Parliament from that time unto the* 22 *of* March *the ſame Year, when his Trial firſt began in* Weſtminſter-Hall.

Likewiſe an Account of Proceedings and remarkable Paſſages in both Houſes of Parliament, and ſome material Matters elſewhere Concomitant to the ſaid Trial, during the time it laſted, which was until the 30th *of* April, 1641.

Friday, November 6th, 1640.

THE Houſe of Commons having in the firſt place, according to ancient Cuſtom, ſetled all their Grand Committees, for Religion, Grievances, Courts of Juſtice, Trade, and Priviledges; It was moved, That in regard the Complaints of the Kings Subjects in *Ireland* were many, who had undergone great Oppreſſions in that Kingdom by Male-Government there, and come to this Parliament for Relief, might be referred to a Committee of the whole Houſe for that purpoſe only to be appointed. This motion being made by Mr. *Pym*, and ſeconded by Sir *John Clotworthy*, avowing many particulars of the Complaints mentioned to be true, it made a Diſcovery to ſuch as were well-wiſhers to *Thomas* Lord *Wentworth* Earl of *Strafford* and Lord Lieutenant of *Ireland*, that this Motion was intended by a ſide-wind, to accumulate Complaints againſt him the ſaid Lord Lieutenant, in order to an Accuſation; ſo when the queſtion was put, after long debate, *viz.* Whether the *Iriſh* Affairs ſhould be referred to a Committee of the whole Houſe? The Houſe was divided, Sir *John Clotworthy* and Sir *Henry Mildmay* being of Opinion for the *Yeas*, were appointed Tellers of the Number of the *Noes*; and Sir *Edward Bainton* and Sir *Richard Luſon* being of Opinion, not to refer this buſineſs of *Ireland* to a Grand Committee, conceiving it without Preſident, were appointed Tellers of the number of the *Yeas*, and when they had told all, they came up to the Table, and made this Report to Mr. *Speaker*, That there were with the *Yeas* 165, and with the *Noes* 152, whereupon it was Reſolved upon the Queſtion, That the *Iriſh* Affairs ſhould be referred to a Grand Committee of the whole Houſe, to meet to morrow in the Afternoon at Two of the Clock in the Houſe, and afterwards every *Thurſday* at the ſame hour and place: And this Committee is Ordered to have the like Power as the other Grand Committees of the whole Houſe have.

This Vote being carried for a Grand Committee as to *Iriſh* Affairs, a Cabal of Friends to the Earl of *Strafford* ſent down poſt unto him into *York-ſhire* to acquaint him, that they apprehended a Deſign againſt him

in the making of this Committee, and left it to his own Election, whether he would ſtay ſtill on the Head of his Army, or come up to the Parliament. But if he did incline to come up, that he would, at his firſt appearance, Impeach ſome Members of both Houſes (if he had Evidence for the ſame) of being privy to the bringing the *Scotch* Army into this Kingdom, and told him, It was his Wiſdom to begin firſt, and not to be firſt Impeached, as the Earl of *Briſtol* was by the great Duke of *Buckingham*. The ſaid Earl, upon the receipt of this Advertiſement, ſuddenly reſolved to come up and abide the Teſt of Parliament. But his Friends then with him in the *North*, told him, That his frank appearance would make Politicians doubt, whether he did thereby aſſume his Judgment and wonted Prudence, to go thus from his Army to the Parliament, where his Wiſdom could not but know, that the *Scots* and *Scotizing-Engliſh* had reſolved his deſtruction, and therefore (ſaid they) unto him, It were better to keep under the ſafe-guard of the *Engliſh* Army, at his Command, (from which he had acquired ſome affection) or retire to the Army in *Ireland*, then being alſo at his Devotion, or take Sanctuary in ſome Forreign Parts, till fair weather might invite him home, neither (ſaid they) would Diſcretion Vote it a betraying of his Innocency to decline a Trail, whereby the means of Factions raiſed in *England* and *Scotland* by his malicious Proſecutors, and backed with Power, his Innocency could not protect him. They further told him, that if Sentence ſhould paſs againſt him for Non-appearance, yet he had kept his freedom till better times, when he might have occaſion to do his Maſter better Service abroad, then in Council at *White-hall*.

But the ſaid Earl conceiving he had got good Evidence in the *North*, that the *Scots* came in by Invitation and Confederacy, between the Heads of the Covenanters and ſome of the *Engliſh* Members of both Houſes, and having digeſted ſuch his Intelligence almoſt into the form of an Impeachment, he poſted up with the ſame, intending to preſent it to the Houſe of Peers, as ſoon as he arrived there. But on *Wedneſday*, *Nov.* 11, the Houſe of Commons being acquainted by a Member, that there was a buſineſs of great weight to be imparted, deſired the Houſe that the *Lobby* without might be firſt cleared, and the Key of the Houſe brought up to the Table, which was done accordingly; and as the Houſe had entred into debate about the Earl of *Strafford*, there came a Meſſage from the Lords by the Lord Chief Juſtice *Bramſtom*, and Judge *Foſter*, That the King had commanded the Lords Commiſſioners, who were appointed to Treat with the *Scots* Commiſſioners at *Rippon*, to give an Account to both Houſes of Parliament of that which paſſed there and at *York*, and thereupon the Lords deſire there may be a meeting, by a Committee of both Houſes this Afternoon in the *Painted-Chamber* at Three of the Clock, if the occaſions of this Houſe will give leave.

At this time many Members of the Houſe conceived this Meſſage was now ſent, to get Intelligence, what private debate was in hand; The Houſe of Commons returned this Anſwer by the ſame Meſſengers, That at this time they were in Agitation of very Weighty and Important Affairs, and therefore they do doubt they ſhall not be ready, to give them a meeting this Afternoon, as the Lords deſire, but as ſoon as they may, they will ſend an Anſwer by Meſſengers of their own.

After the Meſſengers were withdrawn, the Houſe proceeded in the Debate they were in before, and appointed a Committee to prepare matter upon the ſaid Debate, for a Conference with the Lords, concerning the Earl of *Strafford*, and named ſeven Members, *viz.*

Mr.

Mr. *Pym*,	Sir *John Clotworthy*,
Mr. *Stroud*,	Sir *Walter Earle*, and
Mr. *St. John*,	Mr. *Hampden*.
Lord *Digby*,	

Which ſelect Committee retired immediately into the Committee-Chamber, to prepare Matter of a Conference to be prayed with the Lords, and a Charge againſt the Earl of *Strafford*.

The ſaid Committee preſently returned to the Houſe, and Reported the Matter to them referred; Whereupon it was Reſolved upon the Queſtion, That a Meſſage be ſent from this Houſe to the Lords, in the Name of this Houſe, and of all the Commons of *England*, to accuſe *Thomas* Lord *Wentworth*, Earl of *Strafford*, Lord Lieutenant of *Ireland*, of High Treaſon, and to deſire that he may be Sequeſtred from Parliament, and be Committed to Priſon; and that within ſome convenient time this Houſe will reſort to their Lordſhips with particular Accuſations and Articles againſt him.

Reſolved to Accuſe the E. of *Strafford* of High Treaſon.

Mr. *Pym* went up with this Meſſage to the Lords, and at his Return made this Report to the Houſe.

That he had Repaired to the Lords, and there in the Name of this Houſe, and of all the Commons of *England*, did Accuſe the ſaid Earl of *Strafford* of High Treaſon, and that he had alſo delivered the other Particulars he had in Charge. Their Lordſhips Anſwer was, That they do deſire to take this weighty Matter into their ſerious Conſideration, and will ſpeedily ſend an Anſwer by Meſſengers of their own.

Report of the Meſſage of High Treaſon.

Afterwards Mr. *Pym* was ſent up to the Lords with a Meſſage that ſome fit courſe be taken, that there may be free Paſſage between *England* and *Ireland*, notwithſtanding any Reſtraint made there to the contrary.

The ſame Day came a Meſſage from the Lords by the two Chief Juſtices, That the Lords have taken into ſerious Conſideration, the Accuſation ſent from this Houſe againſt the Earl of *Strafford*, and have Sequeſtred him from the Houſe, and have Committed him in ſafe Cuſtody to the Meſſenger of their Houſe, and they will move His Majeſty, that the Paſſage from *Ireland* into *England* may be open, notwithſtanding any Reſtraint made there to the contrary.

Meſſage of Sequeſtration of E. of *Strafford*.

The Meſſage delivered by Mr. Pym *was in manner following:*

My Lords, the Knights, Citizens and Burgeſſes now Aſſembled in the Commons Houſe of Parliament, have received Information of divers Traiterous Deſigns and Practices of a great Peer of this Houſe, and by vertue of a Command from them, I do here in the Name of the Commons now Aſſembled in Parliament, and in the Name of all the Commons of *England*, Accuſe *Thomas* Earl of *Strafford*, Lord Lieutenant of *Ireland*, of High Treaſon: And they have Commanded me further to deſire your Lordſhips, that he may be Sequeſtred from the Parliament, and forthwith Committed to Priſon. They further Commanded me to let you know, that they will within a very few days reſort to your Lordſhips with the particular Articles and Grounds of this Accuſation.

The Earl being required to withdraw, it was debated by the Peers, Whether he ſhould be Impriſoned on a general Accuſation, without any particular act of Treaſon charged againſt him or not? But upon the queſtion it was carried in the Affirmative, and he being called in, kneeled at the Bar; and after ſtanding up, the Lord-Keeper ſpake to him as followeth:

The Lord Keeper to the E. of *Strafford*.

My Lord of *Strafford*, The Houſe of Commons, in their own Name, and in the Name of the whole Commons of *England*, have this day Accuſed your Lordſhip to the Lords of the Higher Houſe of Parliament of High Treaſon, the Articles they will in few days produce; in the mean time they have deſired of my Lords, and my Lords have accordingly Reſolved, That your Lordſhip ſhall be committed into ſafe Cuſtody to the Gentleman-Uſher, and be Sequeſtred from the Houſe, till your Lordſhip ſhall clear your ſelf of the Accuſations that ſhall be laid againſt you. And thereupon he was immediately taken into Cuſtody by *James Maxwell*, Uſher of the Black Rod.

Thurſday, Novemb. 12, 1640.

Meſſage from the Lords.

A Meſſage came from the Lords by the Lord Chief Juſtice *Littleton*, and the Lord Chief Baron *Davenprot*:

Conference, that Ports of *Ireland* ſhall be open.

That the Lords have Commanded Us to let You know, that in purſuit of your deſire Yeſterday, to have the Ports open between *Ireland* and *England*, ſome of the Lords had moved His Majeſty in it, and it ſhall be done ſpeedily and effectually.

This day the Houſe fell into ſerious Debate concerning Sir *George Ratcliff*, an Intimate of the Lord Lieutenants of *Ireland*, in whom he repoſed great Truſt and Confidence, and by the diſcourſe as if he were guilty of High Treaſon, in endeavouring to ſubvert the Fundamental Laws, and that he did joyn with the Earl to bring in an Army from *Ireland* into this Kingdom, and had joyned with the ſaid Earl to uſe Regal Power, and to deprive the Subjects of this Kingdom of their Liberties. It was moved, that he might be ſent for over; as alſo for Sir *Robert King*, who is a material Witneſs againſt the Earl of *Strafford*. But foraſmuch as they were Members of the Parliament then ſitting in *Ireland*, was referred to a Committe, *viz.*

Committee how to ſend for Sir *George Ratcliff*.

Mr. *St. Johns*,	Mr. *Maynard*,
Mr. *Selden*,	Mr. *Grimſton*,
Mr. *Jeofrey Palmer*,	Mr. *Chadwell*.
Mr. *Solicitor*,	

Which Committee had Power to conſider what was fit to be done in ſending for for Sir *George Ratcliff*, and Sir *Robert King*, in regard they are Members of the ſaid Parliament now ſitting in *Ireland*, and to preſent it to the Conſideration of this Houſe, and are to meet to morrow Morning at Seven of the Clock in the Committee-Chamber.

Mr. Speaker to ſit at the Grand Committee for *Iriſh* Affairs,

Ordered, Mr. Speaker be intreated to be here this Afternoon, to ſit by, at the Great Committee for *Iriſh* Affairs, and if their be Cauſe, to reſume the Houſe.

And

And accordingly the Grand Committee of the whole Houſe ſate this Afternoon upon the *Iriſh* Affairs, and the Speaker ſate by, according to Order. There came word that the Lords were come, and expected the Committee of this Houſe at the Conference, Concerning the Proceedings at the great Council at *York*. Mr. Speaker aſſumed the Chair, and it was moved, That the Committees that ſate in other places, might be ſent for to attend the Conference; that thoſe Gentelmen might be ſent for by the Mace that were gone before to the Conference.

Iriſh Affairs.

The Houſe roſe, and the Committee went up to meet the Committee of the Lords at the Conference; and Mr. Speaker adjourned the Houſe, and went home.

Friday, Novemb. 13, 1640.

Ordered, that the Committee for prepairing the Charge againſt the Lord Lieutenant, being now *Sine die*, meet this Afternoon at Four of the Clock in the Treaſury-Chamber, which Committee has Power to receive all ſuch Petitions and Papers, as may conduce to the buſineſs, and have likewiſe Power to ſend for Records, Papers, Parties, and Witneſſes, or any other thing that they ſhall think may conduce to the perfecting that Charge.

Committee concerning the Earl of *Strafford*.

The King's Solicititor Reported from the Committee appointed to conſider of the manner of ſending for Sir *George Ratcliff* and Sir *Robert King*, being, as is inform'd, Members of the Parliament in *Ireland*.

That the Committee were of Opinion, That it is better to examine this Matter, according to the Rules, and Foundation of this Houſe, than to reſt upon ſcattered Inſtances: They diſtinguiſhed between the Caſe of Sir *George Ratcliff* and Sir *Robert King* thus, We find an Information given (which if it be true) of High Treaſon againſt Sir *George Ratcliff*, then there is no doubt, but in Caſe of High Treaſon, Priviledge of Parliament neither here nor there doth reach to protect him, but that Sir *George Ratcliff* may be ſent for, though a Member in Parliament there; this was the Opinion of the Committee.

For the other, Sir *Robert King*, the Caſe did differ, for to ſend for him to teſtifie in any Caſe, were of dangerous Conſequence; or to ſend for him to teſtifie in the *Kings Bench* in Caſe of Treaſon, where the Court doth ordinarily ſit; but this Caſe differs between ſending for a Member of Parliament to give Evidence in any ordinary thing, or in any ordinary Court, for the Parliament is a Court that doth not ordinarily ſit, a Court of the great Affairs of the Kingdom; therefore to be ſent for hither to this High Court, and to teſtifie in a Caſe of the higheſt Nature, in caſe of Treaſon informed of againſt Sir *George Ratcliff*, We did conceive it to be no breach of Priviledge of Parliament that he ſhould be ſent for, and if the Houſe require of us our Opinions concerning the manner of ſending for him, we ſhall tell you what we conceive of it.

Which Report being made, It was Reſolved upon the Queſtion:

Reſolutions thereupon.

That Sir *George Ratcliff* ſhall be forthwith ſent for, to anſwer the Information that is Charged againſt him here of High Treaſon.

Reſolved upon the Queſtion, That Sir *Robert King* ſhall forthwith be ſent for hither, as a Witneſs to teſtifie in caſe of High Treaſon.

Mr. Solicitor likewiſe offered, from the Committe, to the Conſideration of the Houſe, two Orders, which were read, *in hæc verba*, and by Vote Ordered accordingly, *viz.*

It

Sir *Robert King* to be ſent for.

It is Ordered by this Houſe upon the Queſtion, That Sir *George Ratcliff* being, as is informed, a Member of the Parliament in *Ireland*, becauſe there is an Information in this Houſe of High Treaſon againſt him, ſhall be forthwith ſent for, and brought hither in ſafe Cuſtody, no Priviledge of Parliament extending to this Caſe.

Ordered, Two Meſſengers to be ſent with theſe Orders, and each Meſſenger to have Copies of both the Orders.

Expedition.

It was likewiſe Offered from the Committee, That the Honourable Perſons, near the Chair, would beſeech His Majeſty, that he would be pleaſed to give ſuch Directions, as in His Wiſdom He ſhall think fit for the more Expeditious ſending for theſe Parties. Mr. Treaſurer delivered this Meſſage to His Majeſty.

Saturday, November 14, 1640.

Mr. Treaſurer Reports the Meſſage from the King.

Mr. Treaſurer after he had read out of a Paper, the Meſſage which Yeſterday the Houſe deſired him to deliver to His Majeſty: Declared, that he had acquainted the King therewith, who, this morning, hath given Order to Mr. Secretary *Windebank*, who deals for the Affairs into *Ireland*, to make inſtant Diſpatch to the Deputy there, that all Expidition be done according to the Meſſage. Secondly, Concerning the three Letters deſired by my Lord *Mountnorris*; they were procured by Mr. Secretary *Cook*, who was imployed about the Affairs for *Ireland* at that time, that he is now in the Country in *Darbyſhire*; His Majeſty will take ſome time to be informed in this, and no time ſhall be loſt, and there ſhall be an Account given.

Wedneſday, November 18, 1640.

No Member to viſit the Earl of *Strafford* without leave.

Ordered, That no Member of this Houſe ſhall viſit the Earl of *Strafford*, during the time of his Reſtraint, without Licence firſt obtained from the Houſe.

Meſſage to the Lords for a Committee to examine Witneſſes.

Ordered, A Meſſage be ſent to the Lords, to deſire them, that they would pleaſe to appoint a Committee of a very few, that in the preſence of this ſome of this Houſe might take ſuch Depoſitions, and examine ſuch Witneſſes as they ſhould name upon Interrogatories and Queſtions, as ſhall be preſented to them by Order of this Houſe concerning the Earl of *Strafford*, and the Interrogatories, Teſtimonies, and Witneſſes to be kept private, until the Charge be made full and perfect.

Ordered, That Mr. *Pym* go up with this Meſſage, accompanied with ſo many as ſhall be pleaſed to go.

Approbation of the Lords petitioners for a Parliament.

Then the Houſe fell into Debate, concerning thoſe Lords who Petitioned the King for a Parliament to be called: Whereupon it was Reſolved upon the Queſtion, That thoſe Lords which were Petitioners to His Majeſty at *York*; in their Petition, a Copy whereof was here now read, have done nothing but what was Legal, Juſt, and Expedient for the good of the King and Kingdom, and is now approved by the whole body of the Commons.

Petition to be Entred.

Reſolved upon the Queſtion, That the Copy of the Petition now read, and formerly preferred by the Lords to His Majeſty at *York*, ſhall be here Entred.

Thurſday,

Thurſday, November 19, 1640.

It is Ordered, That if occaſion ſhall be for the Examination of any Members of this Houſe in the buſineſs concerning the Earl of *Strafford*, they ſhall be ready upon Notice, to be examined upon Oath. It is likewiſe Ordered, That upon the Meſſage to be ſent from this Houſe, the Lords be deſired to make the like Order for the Members and Aſſiſtants of their Houſe, and to deſire their Lordſhips, that if occaſion be, that any Privy-Counſellors be produced as Witneſſes, they will take ſuch courſe as in their Judgments they ſhall think fit, that they may be examined. Speedy examinations againſt the Earl of *Strafford* by Members of both Houſes.

This Meſſage to be ſent to morrow morning, by the Meſſengers formerly ſent.

Committee to ſearch Attainders.

Mr. *St. Johns*,	Mr. *Maynard*,
Mr. *Palmer*,	Sir *Simond D'ewes*,
Mr. *Glimer*,	Mr. *Whiſtler*,
Mr. *Selden*,	Mr. *Thomas Widerington*,
Mr. *Grimſtone*,	Mr. Sollicitor.

This Select Committee, or any two of them, are appointed to ſearch the Record of Attainder in the *Kings-Bench*, in ſuch manner, and at ſuch time, as they ſhall think fit, for the furtherance of the Charge in hand againſt the Earl of *Strafford*.

Friday, November 20, 1640.

Report *Iriſh* Remonſtrance.

Mr. *Whiſtler* Reported from the Committee for *Iriſh* Affairs, That he is required, by the Committee, to Report to the Houſe the Affairs of that Kingdom, as they were ſet forth in a Remonſtrance, made by the Houſe of Commons in this preſent Parliament in *Ireland*, wherein it appeared that Trading was deſtroyed, Induſtry diſheartened, new and unlawful Impoſitions were Impoſed, the Arbitrary Determinations of all Cauſes for Goods, Land and Poſſeſſions, by Petitions, and Act at Council-Table where no Writ of Error can lie, and the King loſeth a Fine upon the Original Writ thereby: That His Majeſty's Gracious Inclination for the good of that Kingdom is kept from them: That there is a Monopoly of the ſole Trade of Tobacco, of more gain to the Parties intereſſed therein, than the King's whole Revenue in *Ireland*. The deſtroying of the Plantation of *London-Derry*; The Exorbitant Power of the High Commiſſion, which crieth loud in all the three Kingdoms: The Proclamation forbidding any to depart thence for *England* without Licence, and pay dear for it: The many Subſidies given, and Monies raiſed for the King, and ſtill he is in Debt, and therefore demands an account of His Treaſure, and deſires preſent Redreſs, or Acceſs to His Majeſty.

A Copy of the Remonſtrance was delivered in, under the Hand of the Clerk of the Parliament there, and was read, and ſhall be entred, if ſo Ordered.

That the Secretaries there, Mr. *Slingsby* and Mr. *Little*, be required to ſend hither the Book of Entries of the ſeveral Petitions preſented to the late Lord Deputy, now Lord Lieutenant of *Ireland*, and the ſeveral Orders and Proceedings thereupon made.

That

Warrants for Taxes upon Tobacco.

That Mr. *Little* the younger and Mr. *Carpenter*, who have the Monopoly for Tobacco, be required to ſend hither thoſe Warrants by which they demand, and have laid thoſe Taxes upon Tobacco.

Entries of Impoſitions.

That the ſeveral Affairs of the Cuſtom-Houſe and Ports, (*viz.*) *Dublin*, *Kingsale*, *Yowhall*, *Waterford*, *Corke*, *Galloway*, *Carrick-Fergus*, and *Bangor* be required to ſend hither their Books of Entries, whereby the Impoſitions laid upon ſeveral Commodities, may appear; there were ſeveral Warrants iſſued forth according to this Order, and ſent away.

Poſt Merid.

The Articles offered by a Member of this Houſe againſt the Earl of *Strafford* are referred to the Committee, that are to draw up the Charge againſt the ſaid Earl, which being Reported, were as followeth:

Articles of the Commons aſſembled in Parliament againſt Thomas *Earl of* Strafford, *in maintenance of his Accuſation, whereby he ſtands Charged of High Treaſon.*

Articles againſt the Earl of *Strafford.*

1. That he the ſaid *Thomas*, Earl of *Strafford*, hath traiterouſly endeavoured to ſubvert the Fundamental Laws and Government of the Realms of *England* and *Ireland*, and inſtead thereof, to introduce an Arbitrary and Tyrannical Government againſt Law, which he hath declared by traiterous words, Counſels, and Actions, and by giving His Majeſty Advice, by force of Arms, to compel his Loyal Subjects to ſubmit thereunto.

2. That he hath traiterouſly aſſumed to himſelf Regal Power over the Lives, Liberties, Perſons, Lands, and Goods of His Majeſties Subjects in *England* and *Ireland*, and hath exerciſed the ſame Tyrannically, to the ſubverſion and undoing of many, both of Peers and others of His Majeſties Liege People.

3. That the better to inrich and inable himſelf to go through with his traiterous Deſigns; he hath detained a great part of his Majeſties Revenue, without giving Legal account; and hath taken great Sums out of the Exchequer, converting them to his own Uſe, when His Majeſty wanted Money for His own urgent Occaſions, and His Army had been a long time unpaid.

4. That he hath traiterouſly abuſed the Power and Authority of his Government, to the encreaſing, countenancing, and encouraging of Papiſts, that ſo he might ſettle a mutual Dependance and Confidence betwixt himſelf and that Party, and by their help proſecute and accompliſh his malicious and tyrannical Deſigns.

5. That he hath maliciouſly endeavoured to ſtir up Enmity and Hoſtility between His Majeſties Subjects of *England*, and thoſe of *Scotland*.

6. That he hath traiterouſly broke the great Truſt repoſed in him by His Majeſty, of Lieutenant-General of His Army, by wilful betraying divers of His Majeſties Subjects to death, his Army to a diſhonourable Defeat by the *Scots* at *Newborne*, and the Town of *New-Caſtle* into their hands, to the end, that by the effuſion of Blood, by diſhonour, and ſo great a loſs as that of *New-Caſtle*, His Majeſties Realm of *England* might be engaged in a National and irreconcilable Quarrel with the *Scots*.

7. That

7. That to preſerve himſelf from being queſtioned for thoſe and other his traiterous Courſes, he laboured to ſubvert the Right of Parliaments, and the ancient Courſe of Parliamentary Proceedings, and by falſe and malicious Slanders, to incenſe His Majeſty againſt Parliaments. By which Words, Counſels, and Actions, he hath traiterouſly, and contrary to his Allegiance, laboured to alienate the Hearts of the King's Liege People from His Majeſty, to ſet a Diviſion between them, and to ruin and deſtroy His Majeſty's Kingdoms, for which they impeach him of High Treaſon againſt our Sovereign Lord the King, His Crown and Dignity.

8. And he the ſaid Earl of *Strafford* was Lord-Deputy of *Ireland*, and Lieutenant-General of the Army there, *viz.* His moſt Excellent Majeſty, for His Kingdoms both of *England* and *Ireland*, and the Lord Preſident of the *North*, during the time that all and every the Crimes and Offences before ſet forth were done and committed; and he the ſaid Earl was Lieutenant-General of all His Majeſty's Army in the North parts of *England*, during the time that the Crimes and Offences in the fifth and ſixth Articles ſet forth were done and committed.

9. That the ſaid Commons by Proteſtations, ſaving to themſelves the liberty of Exhibiting at any time hereafter any other Accuſation or Impeachment againſt the ſaid Earl; and alſo of replying to the Anſwers that he the ſaid Earl ſhall make unto the ſaid Articles, or to any of them, and of offering Proofs; alſo of the Premiſſes, or any of them; or any other Impeachment or Accuſation that ſhall be exhibited by them, as the Cauſe ſhall, according to the courſe of Parliaments, require, do pray that the ſaid Earl may be put to Anſwer for all and every of the Premiſſes, that ſuch Proceedings, Examinations, Trials and Judgments may be upon every of them, had and uſed as is agreeable to Law and Juſtice:

Tueſday, November 24, 1640.

Theſe Articles thus Reſolved upon by Queſtion, were by another Queſtion Ordered to be engroſſed againſt to morrow Morning, and no Copies to be delivered of them in the Interim; and the ſame Committee that prepared the Charge is to draw up the Interrogatories, and Mr. *Pym* is to go up to the Lords with the Charge. Articles to be engroſſed.

Wedneſday, November 25, 1640.

Lord *Digby* went up with this Meſſage to the Lords:

That this Houſe deſires a Conference with their Lordſhips, by a Committee of both Houſes, concerning the Articles to be Exhibited againſt the Earl of *Strafford*. Conference concerning the Earl of *Strafford*'s Articles.

Lord *Digby* brings Anſwer, That their Lordſhips have Conſidered the Meſſage, and deſire to meet a Committee of that Houſe, with a Committee of theirs, preſently in the *Painted-Chamber*.

The ingroſſed Articles were again openly read in the Houſe, and agreed to be ſent up to the Lords by Mr. *Pym*, by a Vote upon the Queſtion. Articles engroſſed.

Mr. *Pym* before he went, made a ſhort Declaration of the ſubſtance of that he intended to deliver unto the Lords, both before and after the delivery of the Articles. Mr. *Pym* gets leave to ſpeak.

Mr. *Pym* Reports the Conference.

Mr. *Pym*'s Report of the Conference with the Lords, in delivering up the Articles againſt the Earl of *Strafford*, that he attended the great Committee of this Houſe, and, in their preſence, delivered to the Committee of the Lords Houſe the Charge againſt the Earl of *Strafford*, and if any thing paſſed him through weakneſs, or diſability, he deſires the excuſe of this Houſe.

Thanks to Mr. *Pym*.

It was moved, that Mr. *Pym* might have Thanks for his well delivery of the Charge againſt the Earl of *Strafford*.

Friday, November 27, 1640.

Meſſage for a Conference.

A Meſſage from the Lords, by Juſtice *Littleton* and Juſtice *Bartley*.

The Lords deſire a Conference by a Committee of thirty of their Houſe, with a proportionable number of this Houſe, concerning the Meſſage that was brought unto them by Mr. *Pym*, touching the Examination of their Members, in the Accuſation of the Earl of *Strafford*, and deſire a free Conference touching the laſt Point of that Meſſage, that ſome of the Members of this Houſe ſhould be preſent at the Examination, and they deſire it this morning in the *Painted-Chamber*, if it may ſtand with the conveniency of this Houſe.

Anſwer.

Anſwer is returned by the ſame Meſſenger, That this Houſe has taken into Conſideration their Lordſhips Meſſage, and will in convenient time return Anſwer by Meſſengers of their own.

Saturday, November 28, 1640.

Mr. *Whiſtler*'s Report from the Committee for *Iriſh* Affairs.

Mr. *Whiſtler* Reports from the Grand Committee for *Iriſh* Affairs, That there are many Petitions, and full of matter of Complaints of the proceedings in *Ireland*, and Suitors here for Juſtice. There are many Petitioners here whoſe Eſtates are ſo exhauſted, that they are ſcarce able to bring Witneſſes from *Ireland* hither; many great Perſons of Quality and Truſt are in *Ireland*, material Witneſſes to be examined, as the Maſter of the Rolls, the Lord Chancellor, and others; theſe can hardly be ſpared, to come hither, to give their Teſtimony. The Committee deſires the Advice of the Houſe in this particular (which without their Judgments cannot be determined) to think of ſome way of theſe Parties might have their Teſtimony taken, and the Truth might be known, and Juſtice done. This whole matter thus Reported from the Committee for *Iriſh* Affairs, is recommitted to the ſame Committee again to conſider of it, and to draw thoſe things that are to be inquired of under apt Heads, and ſo preſent them to the judgment of this Houſe to proceed accordingly.

Mr. *Maynard*,	Mr. *Jeofrey Palmer*,
Mr. *St. Johns*,	Mr. *Glynn*,
Mr. *Hide*,	Mr. Sollicitor.
Mr. *Whiſtler*,	

This Committee is to Collect and Offer to this Houſe, Reaſons for this Houſe to make uſe of, and inſiſt upon, in maintainance of that Point of the Meſſage of this Houſe to the Lords, which deſires the preſence of ſome of the Members of this Houſe, at the Examination of ſuch Witneſſes, as ſhall be Propoſed by this Houſe in the Accuſation of the Earl of *Strafford*.

To the Right Honourable the Lord-Deputy.

The Humble and juſt Remonſtrance of the Knights, Citizens, and Burgeſſes of the Parliament aſſembled.

SHEWING,

THAT in all Ages ſince the happy Subjection of his Kingdom to the Imperial Crown of *England*, it was, and is a Principal Study, and Principal Care of His Majeſty, and His Noble Progenitors, Kings and Queens of *England* and *Ireland*, to the vaſt Expence of Treaſure and Blood; that their Loyal and Dutiful people of this Land of *Ireland*, being now, for the moſt part, derived from *Britiſh* Anceſtors, ſhould be Governed according to the Municipal and Fundamental Laws of *England*, that the Statute of *Magna Charta*, or the great Charter of the Liberties of *England*, and other Laudable Laws and Statutes, were in ſeveral Parliaments here Enacted and Declared, That by the means thereof, and of the moſt Prudent and Benign Government of His Majeſty, and his Royal Progenitors, this Kingdom was, until of late, in its growth a Flouriſhing Eſtate, whereby the ſaid people were heretofore enabled, to anſwer their humble and natural deſires, to comply with His Majeſty's Princely and Royal Occaſions, by their free Gift of 150 Thouſand Pounds Sterling; and likewiſe by another free Gift of 120 Thouſand Pounds more, during the Government of the Lord Viſcount *Faulkland*, and after by the Gift of 40 Thouſand Pounds; and their free and chearful Gift of Six intire Subſidies in the 10 Year of His Majeſty's Reign, which, to comply with His Majeſty's then Occaſions, ſignified to the then Houſe of Commons, They did allow ſhould amount, in the Collections, unto 250 Thouſand Pounds (although, as they confidently believe) if the Subſidies had been levied in a moderate Parliamentary way, they would not have amounted to much more than half the Sum aforeſaid, beſides the four intire Subſidies granted in this preſent Parliament. So it is, May it pleaſe your Lordſhip, by the occaſion of the inſuing, and other Grievances and Innovations (though to His Majeſty no conſiderable Profit) this Kingdom is reduced to that extream and univerſal Poverty, that the ſame is leſs able to pay Subſidies than it was heretofore, to ſatisfie all the before recited great Payments: And His Majeſty's moſt Faithful people of the Land do conceive great fears, that the ſaid Grievances and Conſequences thereof, may be hereafter drawn into Preſidents, to be perpetuated upon their Poſterity, which in their great Hopes, and ſtrong Beliefs, they are perſwaded is contrary to His Royal and Princely intention towards His ſaid people; ſome of which ſaid Grievances are as followeth:

1. The general apparent decay of Trades, occaſioned by the new and illegal raiſing of the Book of Rates and Impoſitions upon Native, and other Commodities, Exported and Imported, by reaſon whereof, and of extream Uſage and Cenſures, Merchants are beggered, and both diſinabled and diſcouraged to Trade, and ſome of the honourable Perſons who gain thereby, are often Judges and Parties, and that in the concluſion His Majeſty's Profit thereby is not conſiderably advanced.

2. The Arbitrary deciſion of all civil Cauſes and Controverſies, by paper Petitions, before the Lord Lieutenant and Lord Deputy, and

infinite other Judicatories upon reference from them, derived in the nature of all Actions determinable at the Common Law, not limited into certain time, cauſe, ſeaſon, or thing whatſoever: And the conſequences of ſuch proceedings, by receiving immoderate and unlawful Fees, by Secretaries, Clerks, Purſevants, Serjeants at Arms, and otherwiſe, by which kind of proceedings His Majeſty loſeth a conſiderable part of his Revenue upon Original Writs, and otherwiſe; and the Subject loſeth the benefit of his Writ of Error, Bill of Reverſal, Vouchers, and other legal and juſt Advantages, and the ordinary Courſe and Courts of Juſtice declined.

3. The proceedings in civil Cauſes at Council-Board, contrary to the Law and great Charter, not limited to any certain time or ſeaſon.

4. That the Subject is, in all the material parts thereof, denied the benefit of the Princely Graces, and more eſpecially of the Statute of Limitations of 21 of *Jac.* granted by His Majeſty in the Fourth Year of His Reign, upon great Advice of the Councils of *England* and *Ireland*, and for great Conſideration, and then publiſhed in all the Courts of *Dublin*, and in all the Counties of this Kingdom, in open Aſſizes, whereby all Perſons do take notice, That contrary to His Majeſty's Pious Intentions, His Subjects of this Land have not enjoyed the benefit of His Majeſty's Princely Promiſe thereby made.

5. The extrajudicial avoiding of Letters Patents of Eſtates, of a very great part of His Majeſty's Subjects, under the Great Seal (the Publick Faith of the Kingdom) by private Opinions, delivered at the Council-Board, without Legal Evictions of their Eſtates, contrary to Law, and without Preſident or Example of any former Age.

6. The Proclamation for the ſole emption and uttering of Tobacco, which is bought at very low Rates, and uttered at high and exceſſive Rates, by means whereof thouſands of Families within this Kingdom, and of His Majeſty's Subjects in ſeveral Iſlands, and other parts of the *Weſt-Indies* (as your Petitioners are informed) are deſtroyed; and the moſt part of the Coin of this Kingdom is ingroſſed into particular Hands, inſomuch that your Petitioners do conceive that the Profit ariſing and ingroſſed thereby, doth ſurmount His Majeſty's Revenue, certain or caſual, within his Kingdom, and yet His Majeſty receiveth but very little profit by the ſame.

7. The univerſal and unlawful encreaſing of Monopolies, to the advantage of a few, the diſprofit of His Majeſty, and impoveriſhment of His people.

8. And the extream cruel Uſage of certain late Commiſſioners, and other Stewards of the *Britiſh* Farmers and Inhabitants of the City and County of *London-Derry*; by means whereof the worthy Plantation of that Country is almoſt deſtroyed, and the Inhabitants are reduced to great Poverty, and many of them forced to forſake the Country, the ſame being the firſt and moſt uſeful Plantation in the large Province of *Ulſter*, to the great weakning of the Kingdom in this time of danger; the ſaid Plantation being the principal Strength of thoſe parts.

9. The late Erection of the Court of High Commiſſion, for Cauſes Eccleſiaſtical, in theſe neceſſitous Times; the proceedings of the ſaid Court, in many Cauſes without legal Warrant, and yet ſo ſupported as Prohibitions have not been obtained, though legally ſought for: And the exceſſive Fees exacted by the Miniſters thereof, and the encroaching

of

of the ſame upon the Juriſdiction of other Eccleſiaſtical Courts of this Kingdom.

10. The exorbitant Fees, and pretended Cuſtoms, exacted by the Clergy againſt the Law, ſome of which have been formerly repreſented to your Lordſhip.

11. The Petitioners do moſt heartily bemoan, that His Majeſty's Service and Profit are much more impaired than advanced by the Grievances aforeſaid; and the Subſidies granted in the laſt Parliament, having much encreaſed His Majeſty's Revenue by the buying of Grants, and otherwiſe: And that all His Majeſty's Debts then due in this Kingdom, were ſatisfied out of the ſaid Subſidies; and yet His Majeſty is of late (as the Petitioners have been informed in the Houſe of Commons) become indebted in this Kingdom in great Sums. And they do therefore humbly beſeech, That an exact Account may be ſent to His Majeſty, how and in what manner His Treaſure is iſſued.

12. The Petitioners do humbly conceive juſt and great fears, at a Proclamation publiſhed in this Kingdom, in *Anno Domini* 1635. prohibiting men of Quality or Eſtates to depart this Kingdom into *England*, without the Lord-Deputy's Licence, whereby the Subjects of this Kingdom are hindred and interrupted from free acceſs, to addreſs to His Sacred Majeſty, and Privy-Council of *England*, to declare their juſt Grievances, or to obtain Remedies for them in ſuch ſort, as their Anceſtors have done in all Ages ſince the Reign of King *Henry* the Second, and great Fees exacted for every of the ſaid Licences.

13. That of late His Majeſty's Attorney-General hath exhibited Informations againſt many ancient Burroughs of this Kingdom, into His Majeſty's Court of Exchequer, to ſhew cauſe by what Warrant the ſaid Burgeſſes (who heretofore ſent Burgeſſes to Parliament) ſhould ſend the Burgeſſes to the Parliament, and thereupon, for want of an Anſwer, the ſaid Priviledges of ſending Burgeſſes was ſeized by the ſaid Court, which Proceedings were altogether *Coram non Judice*, and contrary to the Laws and Privileges of the Houſe of Parliament, (and if way ſhould be given thereunto) would tend to the Subverſion of Parliaments, and by Conſequence to the Ruin and Deſtruction of the Common-Wealth.

And that the Houſe of Commons hath hitherto, in this preſent Parliament, been deprived of the Advice and Counſel of many profitable and good Members by means thereof.

14. By the Powerfulneſs of ſome Miniſters of State in this Kingdom, the Parliament in its Members, and Actions, hath not its natural Freedom.

15. And laſtly, that the Gentry and Merchants, and other his Majeſty's Subjects of this Kingdom, are of late by the Grievances and Preſſures before ſaid, and other the like, brought very near to Ruin and Deſtruction: And the Farmers of Cuſtoms, Cuſtomers, Waiters, Searchers, Clerks of unwarrantable Proceedings, Purſevants, and Goalers, and ſundry others, very much enriched, whereby, and by the ſlow Redreſs of the Petitioners Grievances, His Majeſty's moſt Faithful and Dutiful People of this Kingdom do conceive great fears, that their readineſs approved upon all occaſions, hath not been of late rightly repreſented to his Sacred Majeſty: For remedy whereof, the ſaid Petitioners do humbly, and of right, beſeech your Lordſhips, That the ſaid Grievances and Preſſures may be ſpeedily Redreſſed; and if your Lordſhip ſhall not think fit to afford preſent Relief, that your Lordſhip might admit a Select Committee

of

of this Houſe, of Perſons unintereſſed in the benefit ariſing of the aforeſaid Grievances, to be Licenced by your Lordſhip, to repair to His Sacred Majeſty in *England*, for to purſue the ſame, to obtain fitting Remedy for their aforeſaid and other juſt Grievances and Oppreſſions; and upon all juſt and honourable Occaſions, they will, without reſpect of particular Intereſt or Profit to be raiſed thereby, moſt humbly and readily in Parliament extend their utmoſt endeavour to ſerve His Majeſty, and comply with His Royal and Princely Occaſions, and ſhall pray, *&c.*

Monday, November 30, 1640.

A Committee to meet a Committee of the Houſe of Lords about the Examination of Witneſſes, in the Caſe of the E. of *Strafford.*

Sir *Thomas Roe,*
Mr. *Pym,*
Mr. *Strode,*
Mr. *St. Johns,*
Mr. *Grimſton,*
Lord *Digby,*
Sir *John Clotworthy,*
Sir *Walter Earle,*
Mr. *Hampden,*
Mr. *Maynard,*
Mr. *Hyde,*
Mr. *Whiſtler,*
Mr. *Palmer,*
Mr. *Glyn,*
Mr. *Solicitor,*
Mr. *Selden,*
My Lord *Dungarvan,*
Sir *Francis Seymor,*
Sir *Hugh Cholmely,*
Lord *Wenman,*
Sir *Jo. Evelyn,*
Sir *Benjamin Rudyard,*
Sir *James Thynn,*
Sir *John Culpepper,*
Sir *John Strangwaies,*
Sir *Symon D'Ewes,*
Mr. *George Vane,*
Lord *Cramborne,*
Lord *Compton,*
Mr. *Bellaſſis,*
Mr. *Kirton,*
Sir *Thomas Hutchiſon,*
Sir *William Bowyer,*
Sir *James Smith,*
Sir *Arthur Ingram,*
Lord *Ruſſell,*
Lord *Ruthin,*
Mr. *Comisby,*
Mr. *Noel,*
Sir *Thomas Bowyer,*
Mr. *Cecill,*
Lord *Fairfax,*
Sir *Thomas Widdrington,*
Sir *Peter Hayman,*
Sir *John Holland,*
Mr. *James Fynes,*
Sir *Robert Crane,*
Sir *John Corbet,*
Mr. *Jo. Alford,*
Sir *Roger North,*
Sir *Edmond Mountford,*
Mr. *Whitlocke,*
Mr. *Mountague,*
Lord *Faulkland,*
Sir *Peter Stapleton,*
Sir *Henry Mildmay,*
Lord *Herbert,*
Sir *Richard Wynn,*
Sir *Edward Rodney,*
Sir *Ralph Hopton.*

This Committee is to meet with the Committee of 30 of the Lords, concerning a Meſſage ſent hither on *Friday* laſt from their Lorſhips, touching a Meſſage ſent formerly from this Houſe to them by Mr. *Pym*, for the Examination of their Members, in the Accuſation of the Earl of *Strafford*, and touching a free Conference upon the laſt Point of that Meſſage, that ſome of the Members of this Houſe ſhould be preſent at the Examination of Witneſſes, to be propounded by this Houſe, to be examined in the Accuſation of the Earl of *Strafford.*

The

The Petition of ſeveral of the Knights, Citizens, and Burgeſſes of the Commons Houſe of Parliament in *Ireland*, whoſe Names are underwritten, directed to the whole Houſe of Commons in *England* read.

Petition from the Parliament in *Ireland* read.

The Humble Petition of the Knights, Citizens, and Burgeſſes of the Commons Houſe of Parliament in *Ireland*, whoſe Names are underwritten: To the King's moſt Excellent Majeſty read.

The two Gentlemen, Mr. *Jo. Bellewe* and Mr. *Oliver Caſtle*, who brought over thoſe Petitions were called in, and demanded by Mr. Speaker ſeveral Queſtions.

Theſe Gentleman were again called in, and Mr. Speaker told them: This Houſe has taken into Conſideration your Petition, and in due time you ſhall know the Pleaſure of this Houſe.

Ordered, That the Lieutenant of the Tower be required from this Houſe, that he do not ſuffer Sir *George Ratcliff* to ſpeak with the Earl of *Strafford*, a Priſoner there, until further Order be given from this Houſe, nor ſuffer any Meſſage or Letter to be ſent from Sir *George Ratcliff* unto him; or if any ſuch be, to give notice of it to this Houſe, Sir *George Ratcliff* being already ſent for, by Order of this Houſe, upon an Information of High Treaſon.

Sir *George Ratcliff* not to ſpeak with, or write to the E. of *Strafford*.

Reſolved upon the Queſtion, That the Earl of *Craford's* Troop, and thoſe other Officers in the Army, that go under the Name of *Reformadoes* are unneceſſary Charge, and fit to be ſpared; and that my Lord General be moved by Meſſage from this Houſe thereunto.

A Troop of Reformado Officers in the Army to be disbanded.

Reſolved, That thoſe Companies, or other Officers, that ſhall be thus Caſheer'd by the Lord General, ſhall be paid to the Eighth of *December* next.

Tueſday, December 1. 1640.

A Meſſage from the Lords by Baron Trevor *and Judge* Bartley.

The Lords have ſent us to this Houſe, to deſire a preſent Conference in the *Painted-Chamber*, with the ſame Committee that was concerning the matter of the free Conference Yeſterday.

A Meſſage for a Conference for ſome of the Members to be preſent at the Examination of Witneſſes.

Anſwer returned by the ſame Meſſengers.

This Houſe has taken into Conſideration the Meſſage of the Lords, and they return this Anſwer, That they will give a meeting preſently, as is deſired.

Mr. *Pym* reports from the Conference this day, That the Lords Committee, with whom we had a free Conference Yeſterday, took the Matter into Conſideration, and their Reſolution is:

Mr. *Pym's* Report.

That ſuch Members of the Houſe of Commons, as they ſhall make choice of, ſhall be preſent from time to time at the preparatory Examinations concerning the Earl of *Strafford*.

The Lord Keeper expected we ſhould ſay ſomething. We told them, We had no Warrant; for a Conference was deſired concerning the matter of free Conference, and that a free Conference was not deſired; the Queſtion they would have been ſatisfied in, was, Whether we did intend to have the Examinations taken publick in the Houſe, or by a private Committee? I anſwered, We had no Commiſſion for a free Conference.

The ſame Committee that were appointed to draw up the Charge againſt the Earl of *Strafford*, are to be preſent at the Preparatory Examinations of

of Witneſſes before the Lords, to preſent ſuch Queſtions unto the Lords as they ſhall think fit thereupon; and after a full Examination, to preſent the whole ſtate of the Buſineſs to this Houſe.

A Meſſage the Commons.

A Meſſage to be ſent to the Lords, to acquaint them that the Houſe is ready, by ſome Members of this Houſe, to preſent divers Witneſſes to be examined, and ſuch Queſtions as they ſhall deſire that thoſe Witneſſes ſo propounded by them may be all examined one after another, with ſpeed and ſecreſie.

Sir *George Ratcliff* to come in by a day.

Thurſday morning is peremptorily appointed for Sir *George Ratcliff* to appear here, and if he come not then, a Meſſage is to be ſent to the Lords, to deſire them to move His Majeſty for a Proclamation to be ordered againſt him, to bring him in.

Power is given to the Committee that is to be preſent at the preparatory Examination of Witneſſes before the Lords, to ſummon ſuch Witneſſes to be examined to morrow as they ſhall think fit.

Mr. Maynard's *Report from the Conference Yeſterday.*

A Report of the Conference for the Lords Members to be examined.

The Lords ſaid, They had taken the Meſſage into Conſideration ſent by Mr. *Pym*, ſome things were Reſolved, others not, and for that purpoſe deſired a free Conference; whereas we did deſire to examine ſome Members of this Houſe, they were ready to examine them when we ſhould require. They anſwered, That the Peers of their Houſe that ſhall be deſired, and all the Aſſiſtants of that Houſe, when they ſhall be thereunto required, ſhall be examined upon Oath; and next for the time and ſecreſie, they ſaid they ſhould be ſpeedily examined, and Examinations ſecretly kept.

Thurſday, December 3, 1640.

Another Meſſage concerning Members to be preſent at the Examination.

A Meſſage brought from the Lords by my Lord Chief Juſtice *Littleton* and Judge *Bartley*, That according to a deſire of this Houſe, by a late Meſſage they have deputed certain of their Members to take the Examination of Witneſſes in the Caſe of the Earl of *Strafford*, which they will be ready to perform in the preſence of ſuch Members of this Houſe, as ſhall be deputed to that purpoſe.

Ordered, That the Earl of *Kildare*'s Petition, preſented to the Grand Committee for *Iriſh* Affairs, be referred to the Sub-Committee for thoſe Affairs.

Friday, December 4, 1640.

Ordered, That thoſe Members of this Houſe, that be appointed to be preſent at the preparatory Examinations before the Lords be required to declare that by their Duty they owe to this Houſe, they are obliged to keep all thoſe Examinations ſecret.

A Proteſtation of Secreſie.

Thoſe Eight appointed for that Service did make all of them Proteſtations to that purpoſe.

Ordered, That thoſe Eight, or any Four of them, may be preſent at the preparatory Examinations before the Lords.

Mr.

Mr. *Selden*,	Sir *Harbottle Grimſton*,
Mr. *Dutton*,	Sir *Henry Anderſon*,
Mr. *Crew*,	Sir *Nevil Poole*,
Sir *Peter Hayman*,	Sir *Thomas Barrington*.

Saturday.

The Petition of *Richard Heaton* and *Lyonell Farrington* were read, and *Farrington* called in, did avow his Petition; the Petitions are referred to the Committee appointed to draw up the Charge againſt the Earl of *Strafford* to make uſe of it, if they ſhall ſee Cauſe.

December 26th, 1640.

Ordered, That the Committee appointed to draw up the Charge againſt the Earl of *Strafford*, ſhall have Power to examine Witneſſes concerning Sir *George Ratcliff*, and to prepare a Charge againſt him, and to preſent it to this Houſe.

Tueſday, December 29th, 1640.

The Articles againſt Sir George Ratcliff *Read.*

Articles againſt Sir *George Ratcliff.*

Reſolved upon the Queſtion, That this Houſe ſhall Accuſe Sir *George Ratcliff* Knight, of High Treaſon, in the Name of all the Commons of *England.*

That theſe Articles thus Read, ſhall be the Ground of this Accuſation.

That a Meſſage ſhall be ſent forthwith to the Lords to Accuſe Sir *George Ratcliff* Knight, of High Treaſon, in the Name of this Houſe, and of all the Commons of *England*, and that very ſpeedily they will bring Articles againſt him.

Reſolved upon the Queſtion, That the Articles prepared by the Committee againſt Sir *George Ratcliff*, and Read here, ſhall be engroſſed againſt to morrow, to be ſent to the Lords, as a Charge againſt him.

A Meſſage.

A Meſſage ſent from the Lords by the Maſter of the Rolls and Judge *Reeves*,

The Lords have Commanded Us to ſay to You, That whereas there came a Meſſage from this Houſe, to Accuſe Sir *George Ratcliff* of High Treaſon; They would know, Whether they ſhould preſently take care to make ſafe his Perſon?

Anſwer returned by the ſame Meſſengers:

That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will forthwith return them Anſwer by Meſſengers of their own.

Ratcliff.

Mr. *Pym* went up to the Lords to acquaint them, that this day the Houſe of Commons gave no Inſtructions to their former Meſſengers, concerning the Committing of Sir *George Ratcliff*, becauſe his Perſon is already in ſafe Cuſtody in the *Gate-Houſe*, and they intended to have acquainted their Lordſhips with it, when they had produced the Articles againſt him, which would have been very ſhortly, but ſince they are prevented by their Lordſhips, they refer what to do in it to their Lordſhips.

Mr. *Pym* brings Anſwer from the Lords of his Meſſage, That concerning the ſafe Cuſtody of Sir *George Ratcliff*, they had ſent for him, and had taken Order in it, and touching the receiving of the Examinations in this Cauſe, there ſhould be the ſame courſe obſerved in them as was in the Earl of *Strafford*.

Thurſday, December 31. 1640.

The Articles againſt Sir *George Ratcliff*, by former Order ingroſſed, were twice Read; and then it was Reſolved upon the Queſtion, That theſe Articles thus ingroſſed and read, ſhall be ſent up to the Lords by the Commons aſſembled in Parliament, in maintenance of their Accuſation of Sir *George Ratcliff*, whereby he ſtandeth Charged of High Treaſon; And it is Ordered, That Mr. *Pym* go up with theſe Articles.

Reſolved upon the Queſtion, That a Meſſage be ſent forthwith to the Lords, to deſire a Conference of both Houſes, concerning Articles exhibited in maintenance of the Charge againſt Sir *George Ratcliff*.

Sir *John Strangways* went up with this Meſſage.

It was moved, That the Houſe would think of ſome Anſwer to the Lords, concerning the Charges againſt the Lord Archbiſhop of *Canterbury*, and the Earl of *Strafford*, delivered from the *Scotiſh* Commiſſioners, at a Conference by a Committee of both Houſes.

Monday, January 4th. 1640.

Iriſh Army. Ordered, That a Conference be deſired with the Lords to morrow morning, concerning the ſtate, the diſorders and dangers of the new levied *Iriſh* Army, and to preſent them to their Lordſhips, and to deſire them to join with the Houſe in a Petition to His Majeſty, for the disbanding of that Army. The Committee appointed for the Earl of *Strafford's* buſineſs, are to prepare the Heads of this Conference; and the Members of this Houſe are required to bring into this Committee, between this and to morrow morning, ſuch Informations as ſhall come to their Hands conducing to theſe matters; Sir *Walter Earle* and Sir *John Clotworthy* are to manage this Conference.

It was likewiſe moved, That at this Conference, Conſiderations might be had of the great Reſort daily made to the Earl of *Strafford*.

Mr. *Nathaniel Fines* is to go up to morrow morning with a Meſſage to the Lords, to deſire a Conference with their Lordſhips, concerning the Diſorders and Inconveniencies of the new levied *Iriſh* Army.

And to deſire a free Conference concerning thoſe Declarations preſented by the *Scotiſh* Commiſſioners, againſt the Lord Lieutenant and the Lord Arch-Biſhop of *Canterbury*, as Incendiaries; Sir *Peter Hayman* to go up with this Meſſage.

The Subject of his Conference to be, to preſent to the Lords, that it may be made known to the Lords Commiſſioners, that the *Scotiſh* Commiſſioners be deſired to bring in their Proofs againſt the Lord Lieutenant, and the Lord Arch-Biſhop of *Canterbury*, to the end, the Parliament may proceed to Judgment.

Tueſday, January 12th, 1640.

Petitions referred to the Sub-Committee. Ordered, That the ſeveral Petitions of Sir *Henry Wallop*, the Lord Viſcount *Nettersfield*, be referred to the Sub-Committee, formerly appointed

pointed by the Grand Committee for *Iriſh* Affairs for the buſineſs of Sir *Henry Wallop*, becauſe there is ſomething in thoſe Petitions that will materially conduce to the Charge of the Earl of *Strafford*.

Ordered, That the Committee appointed to prepare ſome fit way of Repreſenting to the Lords the four *Iriſh* Cauſes formerly Reported here, (*viz.*) That of the Lord *Mountnorris*, the Lord *Dillon*, Lord Viſcount *Ely*, and the Earl of *Kildare* do ſit.

Friday, January 15th, 1640.

Depoſitions concerning the Earl of *Strafford*.

Ordered, That the Committe appointed to draw up the Charge againſt the Earl of *Strafford*, ſhall deſire to have the Depoſitions that are yet ſealed up, delivered unto them, and may add and inſert ſuch particular Inſtances, and other Circumſtances, as they in their Diſcretions ſhall think fit to the ſeveral Articles delivered in Charge againſt the Earl of *Strafford*, according to the ſaving in the concluſion of thoſe Articles, and that they preſent the whole matter to the Houſe on *Monday* morning next.

Saturday, January 16th. 1640.

A Meſſage concerning Examinations.

Mr. *Pym* went up to the Lords with a Meſſage to this Effect:

To deſire their Lordſhips, That thoſe Examinations which, at the Requeſt of this Houſe, were taken, in the Caſe of the Earl of *Strafford*, by the Lords deputed to that purpoſe, may be delivered to the Commiſſioners of this Houſe appointed to draw up the Charge againſt the Earl, that they may make uſe of them for the enlarging of their Charge, in particularities of Evidences, according to the Clauſe of Reſolution in the concluſion of the ſaid Charge; and likewiſe to make a Declaration, That howſoever, by the Courſe of Parliament, this Houſe might proceed with the Charge in general, yet to avoid all ſcruples, and to bring the buſineſs ſooner to a concluſion, they do deſire to conclude in this way.

Saturday, January 23. 1640.

Mr. *Selden*,	Mr. *Whitlock*,
Mr. *Palmer*,	Mr. *Maynard*.

By Order, are added to the Committee that are to draw up the Articles againſt the Earl of *Strafford*.

Thurſday, January 28th, 1640.

The further Impeachment of the Earl of *Strafford*.

The further Impeachment of *Thomas* Earl of *Strafford*, by the Commons Aſſembled in Parliament, was this day read.

Friday, January 29th, 1640.

Ordered, That the Conſideration of the Commiſſion granted to the Earl of *Worceſter*, and his eldeſt Son the Lord *Herbert*, and ſome Commiſſions by them granted to others, for the levying of Forces in the ſeveral Counties of *England* and *Wales*, and all the Circumſtances depending thereupon, be referred to the Committee to draw up the Charge

againſt the Earl of *Strafford*, and to conſider of the Magazine in Sir *Piercy Herbert*'s Cuſtody.

Saturday, January 30th, 1640.

The further Impeachment of *Thomas* Earl of *Strafford* was again read, and the Title of the Impeachment, and every Article, and the Concluſion, were every of them particularly put to the Queſtion, and were every of them aſſented unto, and Reſolved upon the Queſtion: And afterwards it was Reſolved upon the Queſtion, that theſe Articles being engroſſed, ſhall be forthwith ſent up to the Lords.

Ordered, That Mr. *Hambden* go up with a Meſſage to the Lords, to deſire a Conference with their Lordſhips preſently (if it may ſtand with their Lordſhips Occaſions) by a Committee of both Houſes, touching the further Impeachment of *Thomas* Earl of *Strafford*.

Mr. *Pym* is to manage this Conference, and Mr. *Maynard* is to be Aſſiſtant to him.

Mr. *Pym* acquaints the Houſe, That according to their Command, he had delivered unto the Lords the Articles for the further Impeachment of *Thomas* Earl of *Strafford*.

Ordered, That the Thanks of this Houſe be given to Mr. *Pym*, and to the whole Committee, for the great Service they have done this Houſe in the great pains they have taken, in preparing and drawing up the Charge and Articles againſt *Thomas* Earl of *Strafford*.

Tueſday, February 16th, 1640.

Sir *Philip Stapleton* went up to the Lords, with a Meſſage, to deſire a Conference with their Lordſhips, by a Committee of both Houſes, preſently (if it may ſtand with their Lordſhips Occaſions) concerning the Earl of *Strafford*.

Reſolved upon the Queſtion, That the Heads Reported by Mr. *Pym* from the Committee appointed to prepare the Heads of the Conference to be deſired with the Lords, concerning the Earl of *Strafford*, ſhall be Heads of that Conference, and that Committee is to manage the Conference.

Sir *Philip Stapleton* brings Anſwer from the Lords, That their Lordſhips do expect his Majeſty at their Houſe this Morning; and that ſo ſoon as his Majeſty ſhall be gone, they will ſend Anſwer by Meſſengers of their own.

Thurſday, February 18th, 1640.

Sequeſtration of *Thomas* Earl of *Strafford*.

The Lords deſired a Conference by a Committee of both Houſes, concerning the ſequeſtring of *Thomas* Earl of *Strafford* from his Offices, preſently in the Painted Chamber, if it may ſtand with the convenience of this Houſe.

To which, Anſwer was returned, That they will give a meeting preſently for a free Conference.

Mr. *Pym* Reports the free Conference.

Upon Mr. *Pym*'s Report, It was Ordered, That this Committee, *viz.*

Sir

Sir *Walter Earle*,
Sir *Jo. Culpepper*,
Mr. *Hollis*,
Mr. *Solicitor*,
Mr. *Vaughan*,
Mr. *Hyde*,
Mr. *Pym*,
Mr. *Maynard*,
Mr. *Selden*,
Mr. *Palmer*,
Mr. *Whitlock*.
Sir *Simon D'Ewes*,
Mr. *Whiſtler*,
Mr. *Glyn*, and
Mr. *Hampden*,

Do take into Conſideration the whole matter of the Report of the free Conference now made by Mr. *Pym*, and alſo what concerns the Right of the Commons in the Proceedings in the Lords Houſe againſt the Earl of *Straſford*, and what Concerns the Kingdom in general, and the Legaltiy of theſe Proceedings; and they are likewiſe to Conſider, What is fit for the Commons to claim in Cauſes of Impeachment; and they are to meet this Afternoon at Two of the Clock in the Treaſury Chamber.

Friday, February, 19th, 1640.

To open Letters.

That the Committee for the Earl of *Strafford* ſhall have Liberty to open all Letters directed to Sir *George Ratcliff*, and if they find it worthy the knowledge of the Houſe, they are to acquaint the Houſe therewith.

Ordered, That the Committee, appointed to conſider of the Proceedings in the Lords Houſe againſt *Thomas* Earl of *Strafford*, do meet this Afternoon at Two of the Clock in the Treaſury Chamber.

Tueſday, February 23. 1640.

Concerning Council for the Earl of *Strafford*.

A Meſſage from the Lords, deſiring a preſent Conference by a Committee of both Houſes in the *Painted-Chamber* (if it may ſtand with the convenience of this Houſe) concerning the Conference that was Yeſterday, touching the proceedings againſt *Thomas* Earl of *Strafford*.

Anſwer returned by the ſame Meſſenger, That this Houſe hath taken into Conſideration their Lordſhip's Meſſage, and will give a meeting for a free Conference, as is deſired.

Mr. *Glyn* Reports from the Conference, That the Lord Keeper deliverd the Lords Anſwer in theſe words, *viz.* Firſt, That We ſhall admit him no further uſe of Council, than the neceſſity of the Caſe, for his juſt Defence, requireth, and wherein Council may, with the Juſtice and Honour of this Houſe, be afforded him. Secondly, That there ſhall be no delay in Proceedings, but all Expedition uſed according to their own deſires.

Wedneſday, February 24*th*, 1640.

A Meſſage from the Lords, deſiring a Conference by a Committee of both Houſes, touching the Anſwer of *Thomas* Earl of *Strafford* preſently, if it may ſtand with the Conveniency of this Houſe.

Anſwer returned by the ſame Meſſengers, That this Houſe will give a meeting preſently, as is deſired.

Mr.

Mr. *Solicitor*,	Mr. *Reynolds*,
Mr. *Maynard*,	Mr. *Palmer*, and
Mr. *Pym*,	Mr. *Hampden*,

Are appointed Reporters of the Conference.

Mr. Solicitor Reports from the Conference, That Yeſterday was the day the Lords had prefixed for my Lord of *Strafford* to give in his Anſwer, that accordingly he was there, and had given it in; and that this Anſwer which now they had delivered to the Commons was the Anſwer which the Earl of *Strafford* was to ſtand or fall by.

The engroſſed Anſwer, and a Copy of it, were both delivered in by the Reporters, and was deſired, that when the Copy was perfectly examined, the Original might be delivered to the Clerk of their Houſe.

Ordered, That Mr. Speaker be here this Afternoon at One of the Clock, and that the Earl of *Strafford*'s Anſwer may then be read and conſidered of.

The ſame day in the Afternoon the ſeveral Articles of the further Impeachment of *Thomas* Earl of *Strafford*, by the Commons, were all read; and to every of the ſaid Articles, the particular and ſeveral Anſwers of the ſaid Earl were likewiſe read.

The Anſwer held three hours reading, being above 200 ſheets of Paper, too long to be here inſerted; yet take an exact Abſtract of the ſaid Anſwer to the Articles exhibited againſt him, which are as followeth:

Anſwers to 28 *ſpecial Articles.*

To the Firſt Article, he ſaith, He conceives that the Commiſſion and Inſtruction differ not from thoſe formerly granted, but refers to them, and that ſuch Alterations and Additions as were made, were (for ought he knoweth) rather for the explanation than for the enlarging of the Juriſdiction, the Care whereof was left to the Secretary of that Council, and to the King's Learned Council, to be paſſed for the good of the King's Service, and the Publick Welfare of that Province; for Legality of the Proceedings, divers eminent Lawyers were joyned with the Preſident, who, for the Legal parts, was by them to be directed. He did not adviſe or procure the enlargement of the Commiſſion and Inſtructions, and he believeth nothing hath been practiced ſince, that was not in former Times, contained in former Commiſſions, under general words. He believeth Sir *Conyers Darcy* was lawfully Fined for Miſdemeanors, as a Juſtice of Peace; and hath heard, he being in *Ireland*, that Sir *John Boucher* was Fined for ſome great Abuſe at the King's being at *York*, going into *Scotland* to be Crowned; to the Proceedings he refers himſelf. He denies that he hath done any thing by that Commiſſion or Inſtruction, other than he conceived he might by virtue thereof lawfully do.

The little Finger of the Law

To the Second Article, He denieth the ſpeaking of thoſe words, but ſaith, That 30, 40 *l.* or more, being returned as Iſſues out of the Exchequer, againſt ſome that had compounded for Knighthood, for 10 *l.* or 30 *l.* ſo as the Iſſues far exceeded the Compoſition, and yet would next time have been increaſed. The ſaid Earl upon this occaſion ſaid, That now they might ſee, that the little Finger of the Law was heavier than the

the King's Loins, which he ſpake to nouriſh good Affections in them towards His Majeſty; and not to threaten or terrifie any, as the Article is ſuppoſed.

To the Third Article, he ſaith, *Ireland* is not governed by the ſame Laws that this Kingdom is, unleſs it be meant by the Common Laws, their Cuſtoms, Statutes, Execution of Martial Laws, Proceedings at Council-Board very much differ, they ſpake not the words in the Article to any ſuch intent; He ſaith, It might be fit enough for him to remember them of the great Obligation they had to the King and His Progenitors, that ſuffered them, being a Conquer'd Nation, to enjoy Freedom and Laws, as their own People of this Kingdom; and it might be, that upon ſome ſuch occaſion, he ſaid to thoſe of *Dublin*, That ſome of their Charters were void, and nothing worth, and did not bind His Majeſty farther than He pleaſed, which he believes to be true, having been formerly ſo informed by His Majeſty's Learned Council upon ſundry occaſions.

Ireland a Conquered Nation

To the Fourth, he ſaith, That the legal and ordinary Proceedings at Council-Table are, and time out of mind have been by Petition, Anſwers Examination of Witneſſes, as in other Courts of Juſtice concerning *Britiſh* Plantations, the Church and Caſes hence recommended by the King, for the time being, and in Appeals from other Courts there; and the Council-Board have always puniſhed Contempts to Orders there made, to Proclamations, and Acts of State, by Fine and Impriſonment. He ſaith, That it might be, he told the Earl of *Cork*, that he would impriſon him if he diſobeyed the Orders of the Council-Table, and that he would not have Lawyers diſpute or queſtion thoſe Orders, and that they ſhould bind, but remembreth not the Compariſon of Acts of Parliament; and he hath been ſo far from ſcorning the Laws, that he hath endeavoured to maintain them; the Suit againſt the Earl in the *Caſtle-Chamber*, was concerning the Poſſeſſions of the Colledge of *Youghall*, worth 6 or 700 *l.* which he had endeavoured to get, by cauſing of unlawful Oaths to be taken, and very undue means, the matter proceeded to Examination and Publication of Witneſſes, and after, upon the Earl of *Cork*'s humble Suit, and payment of 15000 *l.* to His Majeſty, and his acknowledgment of his Miſdemeanors, obtained a Pardon, and the Bill and Proceedings were taken of the Files; and he remembers not any Suit for breach of any Order made at Council-Table.

Lawyers not to diſpute the Orders of the Council-Board, in the Earl of *Cork*'s Caſe.

To the Fifth, he ſaith, The Deputies and Generals of the Army have always executed *Martial Law*, which is neceſſary there; and the Army, and the Members thereof, have been long time Governed by Printed Orders, according to which, divers, by Sentence of the Council of War, have formerly been put to death as well in the time of Peace as War. The Lord *Mountnorris*, being a Captain of a Company in the Army, for mutinous words againſt the ſaid Earl, General of that Army, and upon two of thoſe ancient Orders was proceeded againſt by a Counſel of War, being the Principal Officers of the Army, about twenty in number, and by them, upon clear Evidence, ſentenced to Death, wherein the ſaid Earl was no Judge, but laboured ſo effectually with His Majeſty, that he obtained the Lord *Mountnorris*'s Pardon, who, by that Sentence, ſuffered no perſonal hurt or damage, ſave about two days Impriſonment. And as to the other Perſons, he can make no Anſwer thereunto, no particulars being deſcribed.

Lord *Mountnorris* ſentenced to ſuffer death by Martial Law.

To the Sixth, he ſaith, The Suit had depended many years in *Chancery*, and the Plaintiff Complaining of that delay, the ſaid Earl upon a Peti-

The Lord *Mountnorris* put out of Poſſeſſion.

a Petition, (as in ſuch Caſes hath been uſual) calling to him the then Maſter of the Rolls, the now Lord Chancellor, and the Chief Juſtice of the *Common-Pleas*, upon the Proofs in the *Chancery*, decreed for the Plantiff, to which he refers himſelf, and it may be the Lord *Mountnorris* was thereupon put out of his Poſſeſſion.

Lord *Dillon* his Patent queſtioned.

To the Seventh, he ſaith, His Majeſty being Intituled to divers Lands, upon an Inquiſition found, Proclamation was made, That ſuch as Claimed by Patent ſhould come in by a day, and have their Patents allowed, as if they had been found in the Inquiſition, and accordingly divers were allowed. The Lord *Dillon* produced his Patent, which being queſtionable, he conſented, and deſired that a Caſe might be drawn, which was drawn by Counſel, and argued, and the Judges delivered their Opinions, but the Lord *Dillon*, nor any other, were bound thereby, or put out of Poſſeſſion, but might have traverſed the Office, or otherwiſe legally have proceeded, that Caſe or Opinion notwithſtanding.

The Lord *Loftus* cloſe Priſoner, not delivering the Great Seal.

To the Eighth, he ſaith, That upon Sir *John Gifford*'s Petition to the King, his Majeſty referred it to the Deputy and Council of *Ireland*, where the matter proceeding legally to a Decree againſt the Lord *Loftus*, and upon his Appeal, that Decree, by His Majeſty and His Council of *England*, was confirmed, to which Decree and Order he refers himſelf, believing the Lord *Loftus* was committed for diſobeying that Decree, and for continuance in contempt committed cloſe Priſoner. He ſaith, That the Lord *Loftus* having committed divers Contempts, the Council by Warrant required him to appear at the Board, and to bring the Great Seal with him; which Order he diſobeyed, and was ſhortly after Committed, and the Great Seal was delivered up by His Majeſties expreſs Command, and not otherwiſe. And an Information was exhibited in the *Star-Chamber*, for grievous Oppreſſions done by the Lord *Loftus* as Chancellor, whereof he was ſo far from juſtifying, as that he ſubmitted, deſiring to be an Object of His Majeſties Mercy, and not of his Juſtice.

The Earl of *Kildare* Committed.

The Earl of *Kildare* for not performing of an Award made by King *James*, and of an Award made in purſuance thereof, by the ſaid Earl of *Strafford*, upon a Reference from His Majeſty, was by the Deputy and Council Committed, and a Letter being unduly obtained, he did not thereupon enlarge him; but upon another Letter, and ſubmiſſion to the Orders, as by the King was directed, he was enlarged.

The Lady *Hibbots*, and one *Hoy* her Son, having upon a Petition, Anſwer, Examination of Witneſſes, and other Proceedings at Council-Board, been found to have committed foul Abuſes by Fraud and Circumvention, to have made a Bargain with the Petitioner *Hibbots*, for Lands of a great value, for a ſmall ſum of Money, was Ordered to deliver up the Writing, no Aſſurances being perfected or Money paid, and it's like he threatned her with Commitment if ſhe obeyed not that Order, but denieth that the Lands were after ſold to Sir *Robert Meredith* to his uſe, or that by any Order by himſelf made, any one hath been Impriſoned concerning Freeholds, but for Debts and perſonal things, as ſome have been uſed by all his Predeceſſors in like Cauſes.

To the Ninth, he ſaith, Warrants to ſuch Effects have been uſually granted to the Biſhops in *Ireland*, in the times of all former Deputies; but the Earl not ſatisfied with the conveniency thereof, refuſed to give any ſuch Warrants in general to the Biſhops as had been formerly done; but being informed that divers in the Dioceſs of *Down* gave not fitting Obedience, he granted a Warrant to that Biſhop, whereto he referreth,

which

which was the only Warrant he granted of that Nature, and hearing of ſome Conmplaints of the Execution thereof, he recalled it.

To the Tenth, he ſaith, The Lord Treaſurer *Portland* offered the Farm of the Couſtoms for 13000 *l. per annum* in ſome particular Species, but the Earl of *Strafford* advanced the ſame Cuſtoms to 15500 *l. per annum*, and 8000 *l.* Fine, and by his His Majeſties Command became a Farmer at thoſe Rates propoſed, without addition to thoſe Rates, as by the printed Books 7 *Car. Regis* may appear; he diſſwaded the advance of Rates lately propoſed by Sir *Abraham Dawes*, ſo as it was declined; the Rates of Hydes and Wooll are moderate, conſideration being had of their true value, and of the Places whereto they are to be tranſported, and of the Statute made in the time of Queen *Elizabeth*, and there in force, prohibiting the Exportation of Wooll, unleſs they pay to the Crown 5 *s.* the Stone; the Trade and Shipping of that Kingdom are exceedingly increaſed.

To the Eleventh, he ſaith, Pipe-ſtaves were prohibited in King *James*'s Time, and not Exported, but by Licence from the Lord Treaſure of *England*, or Lord-Deputy of *Ireland*, who had 6 *s.* 8 *d.* a 1000, and his Secretary 3 *s.* 4 *d.* for the Licence; but to reſtrain that deſtruction of Timber, by Command of His Majeſty, and Advice of His Council, for His Revenue in *Ireland*, firſt 30 *s.* then 3 *l.* the money was paid to His Majeſty, who hath thereby about 1500 *l. per annum*, and his Lordſhip loſt about 4 or 500 *l. per annum*, which his Predeceſſors had for ſuch Licences. This is paid by the Tranſporter, not by the Natives, whoſe Commodity nevertheleſs appears by rhe Article to be very much increaſed.

To the Twelfth, he ſaith, The Subſidies there are an Inheritance in the Crown by Act of Parliament, 6 *d.* was paid for Subſidy, and 1 *s.* 6 *d.* for Impoſt upon every pound of Tobacco, and Farmed 10 or 20 *l. per annum*, the Commons in Parliament, 10. *Car. Regis*, finding the Revenue to be ſhort of the Expence of that Kingdom 24000 *l. per annum*, Petitioned, thoſe Grants might be applied to increaſe His Majeſties Revenue, without calling upon the Subject, but upon urgent Occaſions: Hereupon upon the Advice of the Committee of the Revenue; and in Conſideration of a Proclamation made in *England*, ſeveral Proclamations were made, and this ſettled in a way, till it could be confirmed by Parliament, for which purpoſe a Bill is tranſmitted, according to the deſire of the Commons, and the Impoſt of Tobacco is Let to Contractors for eleven years, at 5000 *l. per annum*, for the firſt five years, and 10000 *l. per annum*, for the other ſix years, and the Earl hath lent money to forward the buſineſs, and by His Majeſties Allowance is a Partner, but hath not as yet in two years laſt paſt had any Accompts thereof, or made benefit thereby. He knoweth of no whipping, or other puniſhment; the Farmes of the Cuſtoms are better than formerly, 2000 *l. per annum*, five 8 parts whereof is yearly paid unto his Majeſty; the prizes of Tobacco exceed not 2 *s.* or 2 *s.* 4 *d.* the pound, the ſettling of that Revenue, according to the Petition of the Commons, he hath not raiſed, or countenanced, any Monopolies, but oppoſed the ſame,

To the Thirteenth, he ſaith, He endeavoured to advance the Manufacture of Linnen rather than of Woollen-Cloth, which might prejudice that Trade here; he bought Flax-ſeed in the *Low-Countries*, and ſold it at the ſame Rate to ſuch as deſired it, they making their Cloaths not above a foot broad, and winding 8 or 10 threads from ſeveral bottoms together; the contrary was twined, their Flax formerly not above a foot, became a yard in length, and that ſoil is fit to bear it, and the People love ſuch

eaſie Works; He hath ſet up many Looms, made much Cloth, and ſold it to the loſs of ſome Thouſands of pounds; but when the State ſaw the Natives would not change their old Courſes for new and better, the Proclamation was declined. What he did was for the Publick Good, and had nothing from them that was not fully paid for.

To the Fourteenth, He ſaith, He refers to the Oath and Proclamation, which was ſet forth by the ſaid Earl and Council of State there, at the inſtance of the Farmers of the Cuſtoms, towards the defrauding of the King's Duties being in *France*, whereof His Majeſty had five eight parts: He never heard any Complain of the Oath, or of any that refuſed to take it, and conceived it to be lawful, divers of the Council approving it, being Learned Judges of the Law, to whoſe judgment, for the legality, he ſubmitted, as well in that as to other matters of like nature.

To the Fifteenth, He denieth what is in the Article Objected, but ſaith, That about the Year 1626. certain Agents authorized in *Ireland*, were ſent into *England*, and offered and agreed to pay to his Majeſty 120000*l.* in ſix years, towards the maintenance of His Army, and a like payment of 20000*l. per annum*, was after agreed, and continued for three years longer; the Aſſeſsments were made, and it was ſhortly after, by them and the Lord *Faulkland* then Deputy, agreed in *Ireland*, that the Money ſhould not be charged upon Record, but levied by Captains, by Paper-Aſſignments, upon Warrants from the Lord Deputy; and this courſe was held four years in the Lord *Faulkland*'s time, and the four years wherein the Lord *Loftus* and the Earl of *Cork* were Lords Juſtices there; and it held for the remaining year only, after the Earl of *Strafford* came thither; but the Earl of *Cork* having ſpared thoſe Towns for the benefit of himſelf and Tenants during the time of his being Juſtice: The Earl of *Strafford* reduced the Aſſeſsments to what it was made by the Lord *Faulkland*, and gave way that Sir *William St. Leiger*, Lord Preſident of *Munſter*, to take the ſame Arrerages, in ſatisfaction of a Debt due unto him by his Majeſty, and he is confident no force was uſed in levying the ſame: It hath been uſual to lay Souldiers to levy that Contribution, to ſend Souldiers to apprehend Contemners of Orders made at Council-Board, and the like; and when Out-laws and Rebels have been in the Woods, no Souldiers have in his time been laid, but by the Advice of the Council there. Touching the *Caſtle-Chamber*, it's a parcel of the Territory of *Ideough*, whereto the King was Intituled by Inquiſition, and the Poſſeſſion eſtabliſhed in a Legal way, when the ſaid Earl was in *England*, and no Souldiers were ſent, but only 12 at the intreaty of Mr. *Wanesford*, for the ſecurity of his Houſes and Plantations againſt Rebels that then were out, and burned and ſpoiled Houſes thereabouts; and neither *Richard Butler*'s, nor any other Family were thence expelled by the ſaid Earl from their Eſtates.

To the Sixteenth, He ſaith, There was ſuch a Propoſition which was juſt, to prevent clamorous Complaints here, which there might be redreſſed, but conceives that by the Laws there, and the Articles known ſince (by the name of the Articles of Grace, made about fourteen years ſince) none ought to depart that Kingdom without Licence.

Thereupon, the Advice of the State, the Proclamations were ſet forth, but not with ſuch intent as in the Article.

He denied Licence only to Three, the Earl of *Cork*, the Lord *Mountnorris*, and Sir *Frederick Hamilton*; to the two former, in regard of Criminal Suits then againſt them in the *Caſtle-Chamber*; to the other by ſpecial Command from His Majeſty; but ſo ſoon as Sir *Frederick* ſaid he would

would complain of the Earl, he made Suit to His Majeſty, That Sir *Fredrick* might come over, which was granted; He conceives ſuch reſtraint to be neceſſary, and if that it be not continued, it will prove of evil Conſequence to that Kingdom.

Parry was queſtioned at the Council-Board for Miſdemeanors, and to avoid Sentence, ſecretly went out of the Kingdom, and at his return, for that and other Offences, was Fined and impriſoned, to the Sentence thereof he refers, and knows of no other that were Impriſoned, as by the Article is Charged.

To the Seventeenth, he ſaith, It's like he might ſay (for the better encouragement of the Officers and Soldiers of the old *Iriſh* Army, in diſcharge of their ſeveral Duties) that His Majeſty was ſo well ſatisfied in the way and pains they took in uſing and practizing of their Arms, that in that Point he would ſet them as a Pattern to be imitated; and conceives it would not be ill if they were ſo, they being in the Opinion of thoſe that have ſeen them Exerciſe, very able and expert Soldiers, he ſpake not other words, or to other purpoſe.

To the Eighteenth, he ſaith, When the Earl of *Cork* was one of the Lords Juſtices, he ſeized ſome Houſes in *Dublin*, pretending they belonged to Jeſuits and Fryers, without Legal Proceedings, which, upon Suits proſecuted at Council-Board, were, according to Juſtice, reſtored to the Owners; but how ſince imployed the Earl of *Strafford* knoweth not, but endeavoured the utmoſt he could to maintain that Seizure. Touching the 8000 Men, he ſaith, They were raiſed according to the King's Warrant, and that the ſaid Earl left the Care thereof to the Earl of *Ormond* and others, and what number are *Proteſtants*, what *Papiſts*, he knoweth not, bot believeth ſuch a Body cannot be there raiſed, without many *Papiſts*; the greateſt number of the Captains and Officers are *Proteſtants*, choſen by the ſaid Earl. The 1000 Men were drawn out of the old, to make Officers for the new Army, and believeth the 1000 put to the old Army are *Proteſtants*, in regard by his expreſs Order no *Papiſt* is to be admitted there a Common Soldier. He never preferred any Captain, Lieutenant or Enſign to be of that Army that was a *Papiſt*, and conceives they are duly paid; and believes thoſe newly raiſed exerciſe the Religion no otherwiſe than was practiced before the Earl's coming thither: He was a Commiſſioner to Compound with the Recuſants for their Forfeitures, and endeavoured to qe informed of the utmoſt value of their Eſtates; in four Years he brought that Revenue from 2300 *l.* to be between 11 and 12000 *l. per annum*, more than ever was raiſed formerly in ſo ſhort a time, by which faithful dealings, for His Majeſty, he procured the hard Opinion of the Recuſants throughout the Kingdom; that out of thoſe Compoſitions he hath paid near 100000 *l.* into the Exchequer; and they had no other priviledges than what was exerciſed in the Commiſſion, and in former like Commiſſions, and as are in the preſent Commiſſion to the Lord Treaſurer and others.

To the Ninteenth, he ſaith, The laſt Summer was twelve months, when the *Engliſh* and *Scotch* lay in the Fields near *Berwick*, the Earl and Council of *Ireland* having a general motion thereof, were in fear that the *Scots* in *Ulſter* (being almoſt 100000 in number) might be drawn to ſide with the Covenanters, and adviſing how to ſecure that Kingdom, the Principal of the Nation of *Scotland*, living in *Ireland*, came to *Dublin* and Petitioned, That he might have an Oath whereby they might give Teſtimony of future Obedience to His Majeſty; whereupon an Oath

was by the Advice of Council of State framed, and chearfully taken by thoſe *Scotch* Gentlemen, and generally by all the Nation in *Ireland*, as the Earl conceives to their advantage, and the ſatisfaction of others; he believes that ſome were Sentenced for refuſing it, but none were otherwiſe exiled. The Earl in his Vote ſaid, That he would endeavour, that all of that Nation ſhould take that Oath, or leave the Kingdom, all which was done by His Majeſties Direction and Approbation; and it was not contrived to the intents in the Article Charged, but to prevent their adhereing to the Covenanters then in open Arms, and not concerning the Ceremony or Government of the Church.

To the Twentieth, he ſaith, That in the Year 1638, the Earl was in *Ireland*, when Preparations were made for War, and Summons ſent to the Nobility of this Kingdom: In the Year 1639, a General was appointed, and an Army drawn to the Field, and Encamped near *Berwick*, whereby it appears he was not acquainted that the Article of Pacification had been broken on both Sides, and ſo diſtempered, that it was held fit an Army in *England* ſhould be raiſed, to ſuppreſs the Covenanters, if the buſineſs could not with Honour and Safety be otherwiſe compoſed. The ſaid Earl humbly adviſed His Majeſty to call a Parliament, and uſed many Motives thereunto; after the Parliament was called, and before the Sitting thereof, Ten of the Lords, and other of the Council for Forreign Affairs, being aſſembled, His Majeſty then preſent, an Honourable Perſon related the Covenanters Demands; it was then Voted by all, That they were ſuch as might not in Honour and Safety be condeſcended unto by His Majeſty; and if they could not be otherwiſe reduced, His Majeſty muſt be conſtrained to bring them to it by force; the like Reſolution was after at the Council-Table by Twenty of the Council: Whereupon His Majeſty appointed a Council of War, and it was held neceſſary to borrow 200000 *l.* upon good Security, till the Supplies by the Parliament might come in. He never ſaid the *Scotch* Nation were Rebels, but was ever perſwaded that many of them are moſt Loyal Subjects.

Thoſe that raiſed Arms, when they were at ſuch a diſtance from His Majeſty, he might ſay they were no leſs than Rebels and Traytors; by Warrant from the Lord Admiral, he cauſed divers Ships and Goods to be ſeized, but not with an intent to ſet on the War, but as much as in him lay to bring all to fair Accommodations without expence of blood.

To the 21*th*, he ſaith, The Pacification was broken before he came over, as in the Anſwer to the former Article he moved His Majeſty for a Parliament in *England*, but not with ſuch intent as in the Article, but out of a deſire to have ſetled a right Underſtanding between the King and His People. It may be, he ſaid, (though he remembreth it not) that if the Parliament would not Supply his Majeſty, he would ſerve His Majeſty in any other lawful way; being well aſſured that His Majeſty would not imploy him, nor any Man elſe, in any other kind.

To the 22*th*, he ſaith, According to His Majeſties Inſtructions, he did ſet forth to the Parliament of *Ireland*, the State of the Affairs as they then ſtood, and they freely gave four Subſidies, as an acknowledgment of His Goodneſs and happy Government, as by the Act and Remonſtrance appears in Print; He by His Majeſties Direction, then gave Order for the raiſing of 8000 Men, who ſtill remain in the King's Pay, and were ſent into *Ulſter* to ſecure thoſe Parts, or to land in *Scotland*, to divert the Earl of *Argile*. in caſe he joined with the Covenanters Army againſt the King; but it was mentioned in the King's Letter, 2 *Martii*, 1639. he had purpoſely

poſely given out, That they ſhould join with the King's Army at *Berwick*, to colour other Deſigns; but the true cauſe of their Levying was made known to be as aforeſaid unto the Earl of *Ormond*, Sir *John Burlace*, and the Marquiſs of *Hamilton*, and Earl of *Northumberland*, at the time of the writing the Letter, and he denies the words charged in the Articles, or any other words to ſuch intent and purpoſe.

To the 23*th*, he ſaith, The matters of the Parliament were no otherwiſe referred to him, than to the reſt of the Council, that coming ſick from *Ireland* about ten days after the Parliament were ſet, and after the Treaty with the Earl of *Dunfermline*, Lord *Lowdon*, *Scotch* Commiſſioners, was broken off, and the Army preparing, and the Parliament not ſupplying Monies as His Majeſty deſired; His Majeſty adviſed what might move them to prefer His Supply; in debate whereof, he humbly adviſed His Majeſty, by a Meſſage to the Houſe, to lay down Ship-Money, and promiſe never to demand it, and give way to reverſe the Judgment by a Writ of Error in Parliament, and to promiſe a Redreſs of Grievances when they ſhould be prepared. And ſecondly, That they would preſently agree upon ſuch Supply as ſhould maintain His Army, for reducing the *Scots* to their Obedience, wherein rheir Safety and His Honour was concerned: His Majeſty aſſented conditionally, that he might have 12 Subſidies; the Earl beſought him that it might not paſs as a Condition, but to Relinquiſh Ship-Money, and put himſelf upon their Affections, and drew up the Meſſage in Writing, and delivered it to Mr. Secretary *Vane* to deliver to the Houſe of Commons: He deſired to know if His Majeſty would not take leſs than 12, His Majeſty Anſwered, He feared leſs would not ſerve His Occaſions; The Earl of *Strafford* beſought His Majeſty to accept of Eight, ſo His Majeſty aſſented, and deſired Mr. Secretary to ſignifie ſo much, as occaſion ſhould be offered; but whether he did ſo or not the ſaid Earl knoweth not. The Houſe of Commons being in debate two days, and not Reſolving. His Majeſty about the 5*th* of *May* laſt called a Council at Seven of the Clock in ths Morning, the ſaid Earl being ſick, came late, and was told, (as he remembreth) by the Earl of *Bark-ſhire*, the King had declared His Reſolution to Diſſolve the Parliament; the Earl of *Strafford* beſought His Majeſty to hear the Advice of His Council, and firſt of thoſe that were Members of the Houſe of Commons, by whom the reſt might the better be guided: Mr. Secretary *Windebank* ſaid, He feared the Houſe would firſt be Anſwered of their Grievances, and Voted for a Breach of the Parliament. Mr. Secretary *Vane*, in oppoſite terms ſaid, That there was no hope that they would give the King a Penny, and therefore abſolutely Voted for a Breach. And the Earl of *Strafford* conceiving His Majeſties Pleaſure to have accepted Eight Subſidies, had been delivered to the Houſe of Commons by Mr. Secretary *Vane*, did, in His Majeſties turn, deliver his Vote for Breach of the Parliament, which otherwiſe he would not have done; it being contrary to what he Reſolved when he came thither, and like Opinion was delivered by the reſt of the Lords, being about twenty, except two or three at the moſt. The Parliament being Diſſolved, His Majeſty deſired Advice of His Council, How Money might be raiſed, affirming, That the *Scotch* Army was ready to enter into the Kingdom; The ſaid Earl, in preſence of others in the Council delivered his Opinion, That in a Caſe of abſolute and unavoidable neceſſity, which neither would nor could be prevented by ordinary remedies, provided by the Laws, nor all His Majeſties other means ſufficient to defend the Common-wealth Himſelf, or their Lives and Eſtates from an Enemy, without force

force of Arms, either actually entred, or daily expected to Invade the Realm; He conceived that His Majeſty was abſolved from ordinary Rules, and might uſe (in a moderate way the neceſſity of the Cauſe would permit) all ways and means for defence of Himſelf and Kingdom, for that he conceived in ſuch extremity, *Salus Populi* was *Suprema Lex*, provided it were not colourable, nor any thing demanded imployed to other uſe, nor drawn into Example, when Law and Juſtice might take place; and that when Peace was ſettled, Reparation was to be given to particular Men, otherwiſe it would be unjuſt. This was not officiouſly declared but in Council, forced by the Duty of the Oath of a Counſellor, which is, that he ſhall in all things to be moved, treated and debated in Council, faithfully and truly declare his Mind and Opinion according to his Heart and Conſcience; which Oath the ſaid Earl took, and humbly prays their Lordſhips Conſideration thereof; He denieth the words in the Article, or any words to the intent thereby expreſſed.

To the 24*th*, he ſaith, He delivered his Opinion with ſuch Cautions and Reſtrictions, as in the Anſwer to the Precedent Article, and is well aſſured his Diſcourſe at all times hath been without ill Intentions to either of the Houſes of Parliament, which he ever did, and ſhall think and ſpeak of with all Reverence. He denies that he knew of the Publiſhing or Printing of the Book, nor who cauſed it to be Printed or Publiſhed, for at that time he was ſick in his Bed, more like to die than to live.

To the 25*th*, he ſaith Ship-Money was levyed, and adjudged to be due, before his coming over. Sheriffs were then called up as before, and not otherwiſe. If any were ſued in *Star-Chamber*, it was without any particular endeavour of his: It appearing at the Board, That the Mayor and Sheriffs of *London* had been ſlow in Collecting Ship-Money, he ſaid, They were but Miniſterial, and ought to exact, and not diſpute the King's Writs, and that if through their remiſneſs the King ſhould be leſs able to provide for the Publick Safety, when any Foreign Army was ready to enter the Kingdom, they might deſerve to be Fined and Ranſomed; which he ſpake more to haſten them, than of purpoſe to adviſe any ſuch Proſecution; but denies the other words, being, under favour, ſuch Expreſſions as he is not accuſtomed unto.

To the 26*th*, he ſaith, He adviſed not either of thoſe Projects (being then ſick in Bed) but it being debated at the Council-Table, Whether it were better for the King to raiſe Gold and Silver, or Coin baſe Money? He (for the Reaſons then given) delivered his Opinion for the latter. Sundry Merchants Adventurers coming to his Houſe, deſired him to move His Majeſty, then at *Oatlands*, to releaſe the Bullion, or Money, he told them, He knew of no ſuch thing, and would not meddle with it; nor would his Health permit him to go abroad, and ſaid, That if their denying the King in ſuch a Publick Danger, the Loan of 100000 *l.* upon good Security, the King were conſtrained, for the Preſervation of the Land, to ſtay the Bullion, they might thank themſelves; and the City receiving ſo great a benefit by Reſiding amongſt them, they made but an unthankful acknowledgment in ſuch a Straight, to refuſe the Loan of that Sum. The Officers of the Mint came to the Council-Board, and the Earl then ſhewed a Letter, he received from the Earl of *Leiceſter*, wherein was related, That the Cardinal had appointed Commiſſioners to go into the Merchants Houſes at *Paris*, to peruſe their Shop-Books and Accompts, and to Ceſs every man, according to his Ability, towards the payment of the King's Army, and then ſaid, That it was but juſt for us here in *England*, to bleſs God for being under a

King

King which could not think upon ſuch a Preſſing upon the People. But the words in the Article, or words to any ſuch intent, he did not ſpeak, and cannot ſufficiently bemoan himſelf to have been in all his words ſo ill underſtood, or ſo untruly Reported as he hath been.

To the 27*th*, he ſaith, He perſwaded the Gentry of that Country, to allow the *Trained-Band* a months Pay, which they yielded, and His Majeſty graciouſly accepted. It was by Council of War (His Majeſty being preſent) thought fit the *Trained-Bands* ſhould return, ſave the two Regiments under the Command of Sir *William Pennyman* and Sir *Thomas Danby*. It was aſſented unto by His Majeſty, and the great Council of the Peers then aſſembled, That thoſe ſpared ſhould Contribute, and the ſaid Earl was Commanded by them to ſee it done; which was done accordingly by Warrants from him and from his Deputy-Lieutenants, which was much leſs Charge to the Countries than otherwiſe, and denies the other particular in the Article mentioned.

To the 28*th*, he ſaith, He was Lieutenant-General to the Earl of *Northumberland*, about the 24*th* of *Auguſt*, of 10 or 12000 Foot and 2000 Horſe being at *New-Caſtle* under the Command of the Lord *Conway* and Sir *Jacob Aſhley*, and the reſt of the Army at *York*; the ſaid Earl went from *London*, and the 26*th* of *Auguſt*, notwithſtanding his extream weakneſs, and came to *York*, and having received a Letter from Sir *Jacob Aſhley*, that *New-Caſtle* was Fortified, and that they muſt be infamous Beaſts to loſe it, and that it was fully Secured; and being acquainted with ſeveral Diſpatches ſent by Mr. Secretary *Vane*, by his Majeſties Directions, to the Lord *Conway*, General of the Horſe, to oppoſe the Paſſage of the *Scots* over the River of *Tyne*, the one dated 22 *Auguſti*, the other 23 *Auguſti*, another 24 *Auguſti*, another 26 *Auguſti*, the ſubſtance of which Letters are particularly mentioned in the Anſwer to this Article, and to the ſame Letters the ſaid Earl referreth himſelf.

The ſaid Earl, upon ſight of this and Sir *Jacob Aſhley*'s Letter, had reaſon to believe, that all fitting preparation was made, and then underſtanding that if the *Scotiſh* Army ſhould paſs the River, not only *New-Caſtle* altogether Unfortified on the South part, would be loſt, but the ſaid Army of 11000 Foot and 2000 Horſe endangered; and hearing that the *Scotiſh* Army were diſtreſſed for want of Victuals, and knowing the advantage that was in oppoſing the Paſſage of ſuch a River. Hereupon the ſaid Earl, by a Letter dated the 27*th* of *Auguſt*, adviſed the Lord *Conway* with all the Horſe, and at leaſt 8000 Foot, and all the Cannon, to March and Fight with them; upon the paſſage of the River, at which time the ſaid Earl had no Charge of the Army; but the truth is, the Lord *Conway* having not with him all the Horſe, and not above 1500 Foot, and only ſome part of the Cannon was in a poſture to fight, for the paſſage before the ſaid Letter of advice came, which he received not half an hour before the Fight began, and proceeded according to his own judgment, and His Majeſties ſaid general Direction; and afterwards, that is about the 30*th* of *Auguſt*, and not before, the ſaid Earl took upon him the Charge of the Army at *Darlington*, and brought it to *York* to be ſupplied with Neceſſaries that they wanted, and purpoſed to have ſtaid where they were quartered. But hearing from many hands that there was a purpoſe to queſtion him in Parliament, and His Majeſty having given him Liberty of ſtaying there, or coming away, he left the Charge of the Army with the Lord *Conway*, and other Officers, as His Majeſty had directed, and came to *London* on *Monday* the 9*th*, and the 11*th*. of *November* was put under

under Reſtraint, and ſo hath ever ſince remained. And ſaith, That the Town of *New-Caſtle* was no way under his Care; and as to other matters wherto by Law he ought to anſwer, and hath not anſwered, he ſaith, He is not Guilty of them, or any of them, in ſuch manner and form, as in the ſaid Article is expreſſed, and humbly prayeth a convenient time for making his Proofs, and to juſtifie and maintain his Actions in *Ireland*, by ſight of His Majeſties Warrants, Records, and Witneſſes in that Kingdom, and that if any miſtake be in this Anſwer, it may be amended.

And this the ſaid Earl hopeth, that upon equal Conſtruction of His Words and Actions, he ſhall appear free from any great and heinous Offences wherewith he is Charged; and howſoever it ſhall pleaſe God to diſpoſe of him, he ſhall ever pray, that by their Lordſhips great Wiſdoms and Prudence, the Affections of His Majeſty, and Duty of His Subjects, may this Parliament be ſo ſurely knit together, as may by God's bleſſing laſtingly tend to the Proſperity and Flouriſhing Eſtate both of King and People.

Friday, February 26th, 1640.

Committee to conſider of the Proof,

Ordered, That the ſame Committee that was formerly appointed to draw up the Charge againſt the Earl of *Strafford*, with the Addition of Mr. *Palmer*, Mr. *Selden*, Mr. *Whitlock*, and Mr. *Maynard*, do conſider of the Articles and further Impeachment of *Thomas* Earl of *Strafford* by the Commons; and likewiſe the ſaid Earl's Anſwer to thoſe Articles and further Impeachment. And they are likewiſe to conſider of the Proofs, and how the Witneſſes may conveniently be brought together, to give their Teſtimony *Vivæ Voce* in the buſineſs; and they are to proceed in the ſecreteſt and ſpeedieſt way they can, for the advantage of the buſineſs, in preparing it for a Trial and further Proceedings; and they have Power to ſend for Perſons, Witneſſes, Papers, Records, or any thing elſe, that they in their Judgments ſhall conceive fit, or may conduce to the Service; and they are to meet this Afternoon at Two of the Clock in the Treaſury Chamber.

The four Lawyers that were added to the Earl of *Strafford*'s Committee, made their Proteſtation of Secrecy openly in the Houſe.

Sir *George Wentworth*, upon his Proteſtation made to the Houſe to keep ſecret all ſuch Matters as paſſed this day, had leave to reſort to his Brother the Earl of *Strafford*, but all the other Members of this Houſe are reſtrained from reſorting unto him, without leave firſt obtained.

Saturday, February 27th, 1640.

Members to manage the Evidence.

Mr. *Whitlock* Reports from the Committee for the Earl of *Strafford*. The Houſe does declare, That they are well ſatisfied, that the Evidence to be produced againſt *Thomas* Earl of *Strafford* at his Trial be managed by thoſe Members.

Friday, March 5th. 1640.

No Replication to the Earl's Anſwer.

Upon Mr. *Whitlock*'s Report from the Earl of *Strafford*'s Committee, It was Reſolved upon the Queſtion, That there ſhall be no Replication put unto the Earl of *Strafford*'s Anſwer in Writing, but that the further Proceedings ſhall be in the manner as is now propoſed by the Committee.

Mr.

Mr. *Whitlock* is to go up to the Lords with this Meſſage, *viz.*

That the Houſe of Commons have conſidered of the Earl of *Strafford*'s Anſwer, and do aver their Charge of High Treaſon againſt him, and that he is Guilty in ſuch manner and form as he ſtands Accuſed and Impeached, and that this Houſe will be ready to prove their Charge againſt him, at ſuch convenient time as their Lordſhips ſhall prefix, and intend to manage the Evidence by Members of their own, and deſire a free Conference with their Lordſhips, by Select Committees of both Houſes, to conſider of ſome Propoſitions and Circumſtances concerning the Trial,

Mr. *Whitlock* brings Anſwer from the Lords, That their Lordſhips have taken the Meſſage from this Houſe into Conſideration, and will give a meeting for a free Conference, by a Committee of 24 on *Monday* Morning at Nine of the Clock.

The Committee of the Commons.

Mr. *Pym*,
Mr. *Strode*,
Mr. *Solicitor*,
Mr. *Grimſton*,
Lord *Digby*,
Sir *John Clotworthy*,
Sir *Walter Earle*,
Mr. *Hampden*,
Mr. *Whitlocke*,
Mr. *Palmer*,
Mr. *Selden*,
Mr. *Maynard*,
Mr. *Treaſurer*,
Sir *John Culpepper*,
Mr. *Reynolds*,
Mr. *Hyde*,
Mr. *Prideaux*,
Mr. *Whitlock*,
Mr. *Martin*,
Mr. *Proxholm*,
Mr. *Gray*,
Lord *Faulkland*,
Mr. *Vaughan*,
Lord *Ruſſell*,
Sir *John Strangwaies*,
Mr. *Bellaſſis*
Sir *Guy Palmes*,
Mr. *Sutton*,
Mr. *Whiſtler*,
Sir *Symon D'Ewes*,
Sir *An. Irby*,
Sir *Martin Lomly*,
Mr. *Waller*,
Mr. *Coventry*,
Mr. *Upton*,
Sir *Jo. Evelyn*,
Lord *Fairfax*,
Sir *William Maſſam*,
Mr. *Pierepoint*,
Sir *Benjamin Rudyard*,
Sir *Thomas Barrington*,
Sir *Philip Stapleton*,
Mr. *Capil*,
Mr. *Cary*,
Sir *Ralph Hopton*.
Sir *Robert Hatton*,
Sir *Gilbert Gerrard*,
Mr. *Nathaniel Fines*,

A Committee of theſe 48 are to meet a Committee of 24 of the Lords at a free Conference, concerning the Trial of *Thomas* Earl of *Strafford*, on *Monday* Morning next, at Nine of the Clock in the *Painted-Chamber*.

The Committee for the Earl of *Strafford* are to manage this free Conference with the Lords.

Monday, March 8, 1640.

Upon Mr. *Whitlock*'s Report from the Committee for the Earl of *Strafford*, the Heads of a Conference appointed to be had this day concerning the Trial of the ſaid Earl. It was Reſolved upon the Queſtion:

(1.) To propoſe to the Lords, That they will be pleaſed to take ſome Order, that there may be a convenient Place appointed for the Trial of *Thomas* Earl of *Strafford*, and to give ſuch Directions as ſhall be fit for preparing conveniency of room for both Houſes, and for ſuch Members of the Houſe as are appointed to manage the Evidence, and for Witneſſes, and for the Priſoner; and for excluding of all ſuch as ought not to be preſent at the Trial.

(2.) That whereas, in the laſt Meſſage to the Lords, this Houſe did Intimate unto them, That they did intend to manage the Evidence by Members of their own; They are now Commanded to explain their Reaſon, That their Lordſhips may take notice, That we do not expect any Council ſhall be admitted the Earl of *Strafford* at the giving of Evidence at the Trial.

Thurſday, March 11, 1640.

Concerning the manner of the Trial of the Earl.

Mr. *Whitlock* Reports from the free Conference, *concerning the Trial* of *Thomas* Earl of *Strafford*, That the Lord Privy-Seal began with this Introduction; That this Parliament, both Houſes, have had often Conferences, and to good Purpoſe, which had preſerved a true Underſtanding between both Houſes, That at the laſt free Conference their Lordſhips did receive from this Houſe certain Propoſitions, concerning the Trial of *Thomas* Earl of *Strafford*, which We our Selves call Circumſtances. (1.) Concerning Place. (2.) Perſons. (3.) Managing the Evidence. (4.) Uſe of Counſel; he was pleaſed to remember the words of the Propoſition, as they were delivered unto them, and told Us thoſe were Circumſtances; yet Circumſtances were Servants to Execution, and might be altered; and if they ſhould Change from the Houſe they now ſit in into the *Painted-Chamber*, or the Court of Requeſts, upon Survey of it, by skilful Men, they were informed the Floor of it is ſo weak, that it might be very dangerous for ſo great a Reſort to be in together at the Trial, therefore left that to Our further Conſideration. The Lords thought of this, That the Bar in their Houſe might be removed higher, and the Room there made longer; and that being made a Scaffold, might be a Capacity ſufficient to receive the Members of this Houſe; this he did only Propoſe, and ſaid, The Biſhops did deſire to be abſent at this Trial, ſo there would be more room, for the Earls would ſit in their Places. Next that, their Lordſhips did deſire to underſtand, Whether We meant to be there as a Houſe, which they thought We did, or as ſingle Members of the Houſe. (3.) His Lordſhip was pleaſed to tell Us, They deſired an Expoſition of the words managing of Evidence: Whether We intended a marſhalling and applying of the Proof? (4.) That the Lords did deſire, concerning the Place and Perſons, to know how they have been admitted in former times, that they might be fortified by Preſidents for Place and Perſons, and for Counſel, their Lordſhips are careful not to admit of more than is according to the Law of this Kingdom: And thereupon their Lordſhips have made this Reſolution, That the Earl of *Strafford*, in matters of meer Fact, ſhall not make uſe of Counſel, but in matters of Law he ſhall; and if any doubt ariſe, what is matter of Law, and what is matter of Fact, the Lords do reſerve the Judgment hereof to themſelves; this came by intimation of Ours, that We did intend to manage the Evidence; and at a Conference We explained Our Selves, That we did not expect they would allow Him any Council at the giving of Evidence. After this he was pleaſed

to

to tell us, That he had not forgot another thing, though he omitted it, that he that delivered the Propoſition, at the Meſſage, uſed words to this purpoſe, That this Houſe did hold it neceſſary and fit, that all the Members of the Houſe might be preſent at the Trial, to the end, every one might ſatisfie his own Conſcience, in the giving of their Vote, to demand Judgment. Upon this We thought it not fit to make an Explanation, till We had acquainted the Houſe with it.

Ordered, That the whole matter of the Report, now made of the free Conference with the Lords, concerning the Trial of *Thomas* Earl of *Strafford*, be referred to the Committee for the Earl of *Strafford*, to ſearch and conſider of Preſidents, and to prepare Reaſons, and to preſent them to the Houſe to morrow morning, and they are to meet this Afternoon at Two of the Clock in the *Treaſury-Chamber*.

A Meſſage from the Lords, to deſire a free Conference by the ſame Committee that laſt met, touching the Demands concerning the Trial of *Thomas* Earl of *Strafford* in the *Painted-Chamber* preſently, if it may ſtand with the conveniency of this Houſe.

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will give a meeting preſently by the ſame Committee, as is deſired.

The Committee for the Earl of *Strafford*, are appointed to manage and Report this Conference.

Friday, March 12, 1640.

Mr. *Whitlock* Reports from the Earl of *Strafford*'s Committee ſuch Heads, as that Committee does preſent unto this Houſe to be the Heads of a free Conference, to be deſired with the Lords concerning the matter of the laſt free Conference with the Lords, touching the Trial of *Thomas* Earl of *Strafford*.

Upon this Report, It was Reſolved upon the Queſtion, That this ſhall be the firſt Head of the free Conference, *viz.* 1. As concerning Place, that this Houſe doth conceive, that although the Bar of the Lords Houſe be removed, and ſome Members thereof abſent; yet without the Bar, the Room will not be ſufficient to contain the Members of the Houſe of Commons, and that their Lordſhips will be pleaſed to direct ſome other Place, for the Trial. For the Preſidents concerning the Place, their Lordſhips take notice in their Conference, That the Parliament ſate in the Chamber *Blank*, 1 *R.* 2. but the Parliament being Summoned to appear at the King's Palace at *Weſtminſter*, if one Room be not convenient, another Room might be deſired that ſhall be more convenient.

Reſolved upon the Queſtion, That this ſhall be the Second Head of the free Conference, *viz.* (2.) That the Earl of *Strafford*, being Impeached by the Commons, it doth belong to the Houſe of Commons to Reſolve who are to be preſent at the Trial, and that of Right they may come as a Houſe, if they pleaſe, but however they are Reſolved to ſend their own Members as a Committee of the whole Houſe.

Reſolved upon the Queſtion, That this ſhall be the Third Head of that free Conference, *viz.* (3.) That by the managing of the Evidence, this Houſe doth mean the ordering, applying, and inforcing the Evidence, according to the truth of the Fact.

Ordered, That the Fourth Head of this Report now made from the Committee of the Earl of *Strafford*, concerning the matter of Gouncil,

be recommitted to the ſame Committee, with the addition of the Lawyers, of the Houſe as was Yeſterday made; and they are likewiſe to take into Conſideration, what thoſe Gentlemen have incurred that have been of Council with the Earl of *Strafford*, he being accuſed of High Treaſon by this Houſe, in the Name of Themſelves, and of all the Commons of *England*; and to preſent to this Houſe what they think is fit to be done in that buſineſs, and Mr. *Peirepoint* and Mr. *Martin* are added to this Committee as to this buſineſs, and they are to meet this Afternoon at Two of the Clock in the *Treaſury-Chamber*.

Saturday, March 13, 1640.

Concerning the place of Trial, and the Council for the Earl.

Mr. *Peirepoint* is appointed to go to the Lords, to deſire a free Conference by the ſame Committee that was laſt appointed for the free Conference, touching the Trial of *Thomas* Earl of *Strafford*.

Mr. *Whitlock* Reports from the Committee for the Earl of *Strafford*, That the Houſe had heard part of this Report the other day, *viz.* (1.) The place of Trial. (2.) The Perſons to be preſent. (3.) The managing of the Evidence; theſe three paſſed their Vote Yeſterday. The Fourth Head concerning Counſel was recommitted, which received this Reſolution, That the Commons do acquaint their Lordſhips, that if at any time, during the Evidence, the Counſel for the Earl of *Strafford* ſhall interpoſe, when the Members of this Houſe, that are appointed to manage the Evidence, are ſpeaking, they muſt of neceſſity deſiſt, becauſe it will not become them to plead againſt Counſel; and as concerning the allowing of Counſel in matters of Law, and reſerving to their Lordſhips to judge the Doubts, what is matter of Law, and what Fact; the Commons do ſave to themſelves all Right that doth appertain to them, according to Law, and courſe of Parliament, and do declare, That the Proceedings in this Caſe ſhall not be drawn into Preſident, to the prejudice of the Commons. For the other matter, concerning the Offence of the Counſel of the Earl of *Strafford*, by being of Counſel with him, without leave of this Houſe; the Committee could not proceed, the other matter taking up the whole time.

The Committee for the Earl of *Strafford*, are to manage this Conference.

Mr. *Whitlock* acquaints the Houſe, That according to the Command of this Houſe, he had delivered unto the Lords the Votes that had paſſed here, concerning the Trial of *Thomas* Earl of *Strafford*.

A Meſſage from the Lords, deſiring a free Conference by the ſame Committee, touching the Demands concerning the Earl of *Strafford* preſently in the *Painted-Chamber*, if it may ſtand with the Conveniency of this Houſe.

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will give a meeting preſently, as is deſired. The ſame Committee is to manage and Report this Conference.

Mr. *Whitlock* Reports from the free Conference, touching the Demands concerning the Trial of the Earl of *Strafford*, That the Lord of *Bath* was pleaſed to declare, in the Name of the Lords, That the Houſe had taken into Conſideration thoſe Demands made this Morning and agreed upon an Anſwer to every one of them.

(Firſt,)

(Firſt,) As to the Place, they had agreed, it ſhould be in *Weſtminſter-Hall*, and the King to be made acquainted with it by the Lord Great Chamberlain. (Secondly,) For Perſons, their Lordſhips agreed to it, That the Houſe of Commons be preſent as a Committee of the whole Houſe for this time, with the ſaving of the Right of the Lords Houſe, either according to Law or Parliamentary Proceedings; and that this ſhall not be drawn into Preſident hereafter on either ſide. For the (Third,) For the managing of Our Evidence, they grant it wholly. For the (Fourth,) For Counſel in managing and forcing of Evidence; the Counſel of the Earl of *Strafford* is not to ſpeak nor interrupt the matter of the Houſe of Commons until all the Evidence is finiſhed; and the Counſel is not to ſtand at the Bar, but in ſome convenient place where they may hear; and that they may ſpeak for matter of Law, but not for matter of Fact, and that not unleſs their Lordſhips ſhall ſee fitting. (Next,) For the time, my Lord of *Bath* did tell Us, they could not yet Reſolve upon it, till the Surveyor and Workmen, that did take care to build the Scaffolds, did give account how ſoon they could be ready.

Ordered, That it be referred to the Committee for the Earl of *Strafford*, with the addition made to the Committee for this purpoſe, to conſider of the ſaving, and the other part of the Report now made from the free Conference, concerning the Trial of *Thomas* Earl of *Strafford*, and they are to preſent to the Houſe what they think fit to be done thereupon.

Monday, March 15, 1640.

A Meſſage from the Lords, That the Houſe of Peers deſire a Conference concerning the time of the Earl of *Strafford's* Trial, and ſome other Circumſtances that concern that Trial; they deſire it preſently in the *Painted-Chamber*, if it may ſtand with the conveniency of this Houſe by the ſame former Committee. The time of the Trial.

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will give a meeting preſently, as is deſired by the ſame Committee.

Mr. *Whitlock* Reports the Conference had with the Lords, concerning the Trial of the Earl of *Strafford*, *in hæc verba*, That the Lord of *Bath* did tell Us, That he had ſomething to acquaint Us from the Lords, That their Lordſhips had Ordered, That the Place for the Trial of the Earl of *Strafford* ſhall be in *Weſtminſter-Hall*; That the King hath been acquainted therewith, and hath been pleaſed to aſſent thereunto: That the time for the ſaid Trial ſhall begin on *Monday* next at Nine of the Clock in the Forenoon; and that againſt that time Care is taken that all things ſhall be prepared and made ready; and that the Lords will be pleaſed to give notice of the time appointed for this Trial to the Earl of *Strafford* to attend accordingly; and a Warrant is to be directed to the Lieutenant of the *Tower*, to bring the ſaid Earl of *Strafford* at the time and to the place aforeſaid. Concerning the Place for the Trial.

After this the Earl of *Eſſex* told Us, The Lords did take into Conſideration ſomething alledged in the Earl of *Strafford's* Anſwer to the 27 Article, wherein the Peers, that were of the Great Council, had ſome Aſperſion caſt upon them, that they had entred this Proteſtation.

Whereas

Whereas the Lords of the Great Council at *York*, to clear their Honours only, have made their Proteſtation, That they did neither Command nor Approve the raiſing of Monies in *Yorkſhire*, as is alledged by the Earl of *Strafford* in his Anſwer to the 27*th* Article. Now the ſaid Proteſtation is by this Houſe unanimouſly admitted. And it is likewiſe Ordered, That ſo much may be intimated to the Committee of the Houſe of Commons at the next Conference.

Moved, That the Committee for the Earl of *Strafford* do conſider of the laſt part of the Report now made, concerning the Proteſtation made by the Lords of the Great Council at *York*, how far they may make uſe of it in the Evidence at the Trial of the Earl of *Strafford*.

Ordered, That the Committee for the Earl of *Strafford* conſider of the laſt part of the Report of the Committee, concerning the Proteſtation made by the Lords of the Great Council at *York*, how far they may think fit to make uſe of it as Evidence at the Trial.

Thurſday, March 16, 1640.

Mr. *Whitlock* Reports from the Committee for the Earl of *Strafford*, That whereas the Houſe of Commons have formerly declared to their Lordſhips, that the Earl of *Strafford* being Impeached by them, they do conceive it doth belong to them to Reſolve, in what manner they will be preſent at his Trial; and that of Right they may come as a Houſe if they pleaſe; but for ſome ſpecial Reaſons, upon this occaſion, they are Reſolved to ſend their own Members as a Committee of the whole Houſe, Authorized by the Houſe to be preſent at the Trial to hear, and ſome particular Perſons of themſelves to manage the Evidence. The Houſe of Commons doth ſtill continue their Reſolution in every part thereof and therein, and in the matter of allowing Counſel: And their Lordſhips Reſervation to their Judgment what is matter of Fact, and what not, the Houſe of Commons do ſave to themſelves, as they have formerly done, all Rights that do appertain to them, according to Law, and the courſe of Parliament; and do declare, That the Proceedings in this Caſe ſhall not be drawn into Preſident, to the Prejudice of the Commons.

Ordered, That this Proteſtatation be by way of Conference transferred to the Lords.

Wedneſday, March 17, 1640.

Ordered, That Mr. *Pym* ſhall make Report of three eſpecial Caſes that concern the Earl of *Strafford*'s buſineſs on *Friday* morning next.

Thurſday, March 18, 1640.

Ordered, That the Earl of *Strafford*'s Committee of Twelve do attend that Service, and lay aſide all other Excuſes and Occaſions, unleſs they be otherwiſe Commanded by this Houſe, and Mr. *Glyn* is added to this Committee.

Friday, March 19, 1640.

Ordered, That a Warrant under Mr. Speaker's Hand, be directed to the Maſter of the *Marſhalſey*, of the *Kings-Bench*, requiring him to ſend *Robert*

Robert Coyne (a Priſoner there upon Execution in ſafe Cuſtody) to attend the Committee for the Earl of *Strafford De die in Diem*, ſo long as the Committee ſhall ſo require.

Ordered, That *Patrick Allen*, an *Iriſh* Merchant, who has a Petition depending here, ſhall have the Liberty to go abroad with a Keeper to Proſecute his buſineſs here, and to be examined as a Witneſs at the Committee for the Earl of *Strafford*.

Members appointed to View the place of Trial.

Sir *Thomas Barrington*, Sir *John Culpepper*, Sir *Jo. Strangwayes*, Mr. *Aſhburnham*, Sir *Jo. Hotham*, Sir *William Litton*, Sir *Jo. Holland*, Sir *Robert Pye*, Mr. *Wheeler*, Mr. *Lawrence*, and Mr. *Whitaker*, are appointed as a Committee to View the place for the Earl of *Strafford*'s Trial, and to think of ſome convenient manner for the Committee of the Houſe to go in, and be preſent at the ſaid Trial; and for Mr. Speaker to be there in a private manner, and they are to meet this Afternoon at Two of the Clock in the inner Court of Wards.

Saturday, 20. 1640.

Ordered, That the Earl of *Strafford*'s Committee of 13 ſhall have Power to manage the Evidence in ſuch manner, as they ſhall think fit to manage the ſame at the Trial of the Earl of *Strafford*.

Ordered, That Mr. *White* and Mr. *Prideaux* be appointed to take Notes of the Paſſages of the Trial of *Thomas* Earl of *Strafford*, and to Report them to the Houſe, if occaſion be; and that the Committee ſhall have Power, if occaſion be, to make uſe of two more, ſuch as they ſhall think fit, though not of the Houſe.

Moved from the Earl of *Strafford*'s Committee, That it would pleaſe the Houſe to give a fair and candid Interpretation of the Committees Labours and Endeavours in this buſineſs.

Upon Sir *John Culpepper*'s Report from the Committee appointed to view the Place, and to Regulate the Order and the Manner of the Committee of the Houſes coming and being there: It was Ordered, (1.) That the Members of the Commons ſhall ſit together, without any Intermixture of others, in that place which is prepared for them. (2.) That in reſpect of the inconveniency of it, the Members ſhall not come to meet at the Houſe on *Monday* morning, but come directly to the place of the Trial. (3.) That for the well-ordering of the buſineſs, the ſaid Committee, with the addition of Mr. *Peard*, ſhall be preſent at the ſeveral Doors at the Entrance of the place appointed, for the Members of the Houſe by Six of the Clock, and are directed and required by the Houſe to admit none but ſuch as ſhall bring Tickets of their Names and the Places for which they Serve; and that none of the Members of the Houſe ſhall be admitted to come in before thoſe that are appointed to attend at the Doors ſhall come; and if any, either Stranger or Member of the Houſe, ſhall offend this Order, thoſe who are appointed to attend this Service ſhall Report it to the Houſe. And it is further Ordered, That all of the Houſe ſhall be there by Eight of the Clock at the fartheſt; and that ſuch places ſhall be reſerved for them, who ſhall attend this Service, as they ſhall find to be moſt proper and convenient for them. (4.) Ordered, That the Serjeant at Arms ſhall attend within the Court, and his Men without, to be employed in ſuch Service as they who manage the Evidence ſhall appoint.

Sir

Sir *John Culpepper* further Reported, That the Speaker might be preſent in ſome private place, and as a particular Member of this Houſe; but the Committee doth not think fit that the Houſe ſhould declare any Order in it.

Touching the Members of the Houſe being covered at the Trial, the Committee thinks it not fit for them to deliver any Opinion, only they offer the difference that may be when both Houſes meet, or Committees of both Houſes, and the preſent Caſe, where the Lords are to meet as a Houſe, and the Commons as a Committee of their Houſe.

Reſolved upon the Queſtion, That the Houſe ſhall ſit this Afternoon, and ſhall meet at Two of the Clock.

Mr. *Bellaſſis* went up to the Lords with this Meſſage, To deſire their Lordſhips, That in regard this Houſe is much ſtraitned in time, and hath great Affairs in hand, and will ſit this Afternoon, and may have occaſion of a Conference with their Lordſhips, that they will be pleaſed to ſit likewiſe.

E. of *Strafford*'s Petition read.

The humble Petition of *Thomas* Earl of *Strafford* was this Day read, wherein he deſires, That he may make uſe of ſome Members of this Houſe, nominated in his Petition, as Witneſſes at his Trial; and the Houſe leaves thoſe Members, nominated in the ſaid Petition, to do therein as they ſhall pleaſe, without their giving any offence to the Houſe.

Mr. *Martin* is to go up to the Lords, to deſire a free Conference with their Lordſhips by the ſame Committee that was formerly appointed, touching the matter of the laſt free Conference concerning the Trial of the Earl of *Strafford*.

Ordered, That thoſe Members of the Houſe, that are appointed to manage the Evidence at the Trial of the Earl of *Strafford*, ſhall have Power, if any Witneſſes be produced for the Earl, to ask if they have been Sworn, and if it ſhall appear that they have been Sworn; or if any ſhall be Sworn at the Bar, to forbear to proceed any further in the managing of their Evidence, until they have reſorted unto the Houſe, and have received further Order.

All the Orders that concern the Proceedings againſt the Earl of *Strafford* are required to be Copied out, for the Service of the Committee.

The Names of the Members of the Houſe of Commons, appointed to manage the Evidence againſt Thomas *Earl of* Strafford *at his Trial before the Houſe of Peers, upon an Impeachment of High Treaſon.*

George Lord *Digby.*
John Hampden, } Eſquires.
John Pym, }
Oliver St. John, Eſq; ſhortly after Solicitor-General to King *Charles* the Firſt.
Sir *Walter Earle,* Knight.
Jeofrey Palmer, afterwards Knighted, and made Attorney-General to King *Charles* the Second.
John Maynard, Eſq; afterwards Serjeant at Law to King *Charles* the Second.
John Glyn, Eſq; Recorder of *London,* afterwards Sworn one of the Council to King *Charles* the Second.

The

The great Hall in *Weſtminſter* appointed for the Trial of *Thomas* Earl of *Strafford*.

The Place for the appearance of the Lord Lieutenant was the great Hall in *Weſtminſter*, where there was a Throne erected for the King, on each ſide whereof a Cabinet, incloſed about with Boards, and before with Arras: Before that were the ſeats for the Lords of the Upper-Houſe, and ſacks of Wooll for the Judges, before them ten Stages of ſeats extending farther than the midſt of the Hall, for the Gentlemen of the Houſe of Commons; at the end of all was a Desk cloſed about and ſet apart for the Lord Lieutenant and his Counſel.

Monday.

On *Monday* morning, *March* 22, about Seven of the Clock, he came from the *Tower*, accompanied with ſix Barges, wherein were one hundred Soldiers of the *Tower*, all with Partizans, for his Guard, and fifty pair of Oars: At his landing at *Weſtminſter*, there he was attended with two hundred of the *Trained-Band*, and went in guarded by them into the Hall. The entries at *White-Hall*, *Kingſtreet* and *Weſtminſter*, were guarded by the Conſtables and Watch-men, from Four of the Clock in the Morning, to keep away all baſe and idle perſons.

The King, Queen, and Prince came to the Houſe about Nine of the Clock, but kept themſelves private within their Cloſets, only the Prince came out once or twice to the Cloth of State; ſo that the King ſaw and heard all that paſſed, but was ſeen of none. Some give the reaſon of this from the received practiſe of *England* in ſuch Caſes: Others ſay, That the Lords did intreat the King, either to be abſent, or to be there privately, leſt pretentions might be made hereafter, that His being there was either to threaten, or ſome other ways to interrupt the Courſe of Juſtice. A third ſort, That the King was not willing to be acceſſary to the Proceſs, till it came to His Part; but rather choſe to be preſent, that he might obſerve and underſtand if any Violence, Rigour, or Injuſtice happened. When the Lieutenant entred the Hall, the Porter of the Hall (whoſe Office it is) asked Maſter *Maxwell*, Whether the Ax ſhould be carried before him or no? Who did Anſwer, That the King had expreſly forbidden it; nor was it the Cuſtom of *England* to uſe that Ceremony, but only when the Party Accuſed was to be put upon his Jury. Thoſe of the Houſe of Lords did ſit with their Heads covered, thoſe of the Houſe of Commons uncovered. The Biſhops upon the *Saturday* before did voluntarily decline the giving of their Suffrages in matters Criminal, and of that nature, according to the proviſion of the Cannon Law, and practice of the Kingdom to this day, and therefore would not be preſent; yet withal they gave in a Proteſtation, That their abſence ſhould not prejudice them of that, or any other Priviledge competent to them, as the Lords Spiritual in Parliament, which was accepted.

The Earl of *Arundel*, as Lord High Steward of *England*, ſate apart by himſelf, and at the Lieutenant's Entry, Commanded the Houſe to proceed. Maſter *Pym* being Speaker of the Committee for the Accuſation, gave in the ſame Articles, which were preſented at his laſt being before the Upper Houſe, which being read, his Replies were ſubjoined and read alſo, the very ſame which were preſented before in the Upper Houſe: Some gave the reaſon of this, becauſe the Houſe of Commons had not heard thoſe Accuſations in Publick before. Others, that the formality of the Proceſs required no leſs, however that day was ſpent in that Exerciſe.

The Queen went from the Houſe about Eleven of the Clock, the King and Prince ſtaid till the meeting was diſſolved, which was after Two. The Lieutenant was ſent to the *Tower* by his Guard, and appointed to

return upon *Tueſday* at Nine of the Clock in the Morning. The crowd of People was neither great nor troubleſome, all of them ſaluted him, and he them, with great humility and courteſie, [both at his Entrance and at his Return,] therefore let Fame pretend what it pleaſe about the malice and diſcontent of the Multitude, *That if he paſs the ſtroke of Juſtice, they will tear him in pieces*; yet there is more in Rumor than in Sight and Apperance; and in this Report, as in all others of this nature, more is thruſt upon the Vulgar (who ſeem as well fearful of Puniſhment, as exempt from it, for all their great number) than they did juſtly deſerve at this time.

Monday, March 22, 1640. *Poſt Merid.*

The Houſe of Commons ſpent the Forenoon in the firſt days Trial of *Thomas* Earl of *Strafford* in *Weſtminſter-Hall*: But in the Afternoon the Houſe Ordered, That in Caſe the Earl of *Strafford* ſhall ask leave, or ſhall have liberty given him to ſpeak any thing by way of Defence, before ſuch time as the Members appointed to manage the Evidence, ſhall enter into the managing of their Evidence, that then they ſhall interpoſe; and if ſo be that notwithſtanding ſuch Interpoſition, the Lords ſhall give him leave ſo to ſpeak, that then they ſhall forbear to proceed any further in the managing of their Evidence, until they have Reported unto the Houſe, and received further Order from them.

Ordered, That the Houſe ſhall meet to morrow in *Weſtminſter-Hall* as a Committee; and that the Houſe ſit to morrow in the Afternoon at Two of the Clock.

Ordered, That the Committee formerly appointed ſhall attend at the doors, at the Entrance of the place prepared for the Committee of the Houſe of Commons, at the Trial of *Thomas* Earl of *Strafford*.

Tueſday, March 23, 1640. *Poſt Merid.*

Sir *Philip Stapleton* went up to the Lords with this Meſſage, To deſire a free Conference by a Committee of both Houſes, *concerning their joining* with this Houſe to Petition His Majeſty, To disband the new-levied *Iriſh* Army, Diſarming the *Papiſts* Recuſants, and the removal of *Papiſts* from Court; eſpecially thoſe formerly named, *viz.* Mr. *Walter Montague*, Sir *Kenelme Digby*, Sir *John Winter*, and Sir *Toby Mathew*.

Sir *Walter Earle* and Mr. *Reynolds* are to manage this Conference, and are to move the Lords, to appoint a Petition to His Majeſty, and are to inforce their deſire of removing the *Papiſts* from Court by that Circumſtance of Mr. *Walter Montagu*'s appearing Yeſterday, before both Houſes, at the Trial of the Earl of *Strafford*.

Ordered, That the Houſe meet as a Committee in *Weſtminſter-Hall* at Eight of the Clock, and in the Houſe at Two in the Afternoon, which they are conſtantly to obſerve *De die in diem* during the Trial.

The Houſe does expect that all the Members of the Houſe ſhould conform themſelves to the Order made for Regulating matters at the Trial of *Thomas* Earl of *Strafford*; and that the Committee appointed for that buſineſs ſhall complain of any that conform not thereunto.

Wedneſday,

Wedneſday, March 24, 1640. *Poſt Merid.*

Ordered, That Mr. Treaſurer and Mr. Comptrollor move His Majeſty, That the Committees for the Earl of *Strafford* may have the peruſal of Sir *Edward Cook's Pleas of the Crown.*

Ordered, That no Member of the Houſe ſhall ſtand in the place appointed for the Earl of *Strafford*'s Witneſſes, at the time of his Trial, unleſs they be ſuch as by the ſaid Earl be required to be there as Witneſſes.

Ordered, That Sir *Henry Mildmay* move the Lord High Chamberlain, that the Door at the Entrance in at the Room, appointed for thoſe that manage the Evidence at the Trial of *Thomas* Earl of *Strafford*, be kept ſhut, and that there be ſome other paſſage for the Members to come into the Houſe at, and Captain *Charles Price* is added to the Committee appointed to Regulate matters at the Trial of *Thomas* Earl of *Strafford.*

Ordered, That no Member of the Houſe Confer with the Earl of *Strafford* during the time of the Trial.

Thurſday, March 25, 1641. *Poſt Merid.*

Ordered, That the Committee appointed to manage the Evidence at the Trial of *Thomas* Earl of *Strafford*, ſhall have liberty to proceed upon ſuch Articles, as they ſhall think moſt important for the ſpeedieſt expediting of the Trial, and to contract and proceed in ſuch manner as they ſhall think moſt expedient.

Ordered, That the Committee for the Earl of *Strafford* preſently withdraw into the Court of Wards, to prepare Heads for a Conference, to be deſired with the Lords, concerning the preventing of all Delays in the ſpeedier expediting the Trial of *Thomas* Earl of *Strafford.*

Sir *John Culpepper* Reports from the Committee that was appointed to draw Heads for a Conference to be deſired with the Lords, concerning the preventing of all Delays in the Trial of the Earl of *Strafford* to the purpoſe:

To Repreſent to the Lords the neceſſity of Expediting the Earl of *Strafford*'s Trial, in reſpect of the preſſing occaſions of both Houſes, and of the Eſtate of the whole Kingdom, which will be much interrupted and prejudiced by the Protraction of this Trial: In this Conſideration the Houſe of Commons deſired their Lordſhips, that they would be pleaſed to prevent all unneceſſary Delays which may be occaſioned by the Earl of *Strafford*'s impertinent Exceptions, which as they will take up much time in Debate, ſo they may occaſion frequent Adjournments, the which we deſire their Lordſhips to take into Conſideration, that they may be avoided.

Reſolved upon the Queſtion, That this ſhall be the Subject of the Conference.

Sir *Jo. Eveling* went up to the Lords, to deſire a Conference concerning the Trial of the Earl of *Strafford*; and Sir *Jo. Culpepper* is appointed to manage this Conference.

Monday, March 29, 1641. *Poſt Merid.*

Sir *Thomas Barington* is appointed to go up to the Lords, to deſire a Conference by a Committee of both Houſes, concerning the Trial of *Thomas* Earl of *Strafford.*

This Houſe doth conceive, That the Examination of the Lord Primate of *Ireland,* already taken, is not to be urged, in regard none of the Members of this Houſe were preſent at the taking of it, but the Examination of him (provided) that ſome of the Committee appointed to manage the Evidence at the Trial be preſent thereat, this Houſe will not oppoſe it, ſaving their own Rights; and in like caſes the Houſe leaves it to the Committee to proceed in ſuch manner as they ſhall think agreeable to Law and Juſtice. And this to be the Subject Matter of the Conference, and Mr. *Whitlock* is to manage it.

Friday, April 2, 1641. *Poſt Merid.*

Mr. *Pym* went up to the Lords, to deſire, That ſuch of their Lordſhips as this Houſe ſhall have occaſion to make uſe of, in the Trial of the Earl of *Strafford,* would be pleaſed to be preſent at the ſaid Trial, and by Name the Lord Treaſurer, Lord Admiral, Earl of *Briſtoll,* Earl of *Holland,* and Lord *Conway,* be alſo named to the Houſe, with ſome other Lords that the Houſe ſhould have occaſion to make uſe of; namely, the Lord Primate of *Armagh,* E. *Morton,* and Lord *Newburgh.*

Mr. *Pym* likewiſe nominated ſome Members of this Houſe, *viz.* Mr. Treaſurer, Sir *William Penyman,* Sir *John Hotham,* Sir *Hugh Cholmly,* Mr. *Henry Cholmy,* Mr. *Thomas Price,* Sir *John Strangways,* Mr. Comptrollor, Mr. *Henry Piercy,* Sir *William Envidale,* Sir *Frederick Cornwallis,* Sir *Henry Mildmay,* Mr. *Nichols,* Mr. *Fines,* Sir *Thomas Heale,* Sir *Thomas Barington,* Mr. *Herbert Price*; a Note of theſe Names was given to the Serjeant at Arms, attending on this Houſe; and he is Ordered to give Notice to the Members of the Lords, to be preſent upon all occaſions.

Saturday, April 3, 1641. *Poſt Merid.*

The Petition of *Thomas* Earl of *Strafford* was this Day read, and the like Order made upon it, as was made upon the Petition of the 20*th.* of *March.*

Tueſday, April 6, 1641. *Poſt Merid.*

The humble Petition of *Thomas* Earl of *Strafford* was read, and the ſame Order made upon it as was upon that of the 20*th* of *March.*

Friday, April 9, 1641. *Poſt Merid.*

The Lord *Ruſſel* is appointed to go up to the Lords, to deſire a Conference by a Committee of both Houſes, concerning the Proceedings in the Trial of *Thomas* Earl of *Strafford.*

The Heads of the free Conference to be to this effect:

To acquaint the Lords with the great Neceſſities of the Kingdom, the Preſſures of the Time, and how much time has been ſpent in this Trial:

How

How prejudicial it will be to the Kingdom, if any more then has been be ſpent, and therefore to deſire that to morrow may be appointed for a Peremptory Day, for the Earl of *Strafford* to be heard, if he will come; otherwiſe that the Committee of the Houſe may proceed to the Replication to the whole matter, and the Earl of *Strafford* to be abſolutely concluded, for ſaying any more to the matter of Fact.

Mr. *Pym* is to manage this Conference, and Mr. *Glyn* and Mr. *Hampden* are joined unto him as Aſſiſtants.

Mr. *Pym* acquaints the Houſe, That he hath delivered to the Lords what he was intruſted with by this Houſe, concerning the Trial of *Thomas* Earl of *Strafford*. They gave no other Anſwer, then that they would ſend Anſwer by Meſſengers of their own.

A Meſſage from the Lords by Baron *Hendon* and Mr. *Heath*.

That the Lords have taken the laſt Meſſage to this Houſe into Conſideration, and have Reſolved, That if the Earl of *Strafford* come to morrow, he may proceed according to the former Order; if he comes not, that then this Houſe may proceed to Sum up the Evidence as to matter of Fact, and the Earl of *Strafford* to be concluded as to matter of Fact.

Saturday, April 10, 1641. *Poſt Merid.*

Mr. *Glyn* Reports from the Comittee, for the Earl of *Strafford*, ſome Grounds concerning the further Evidence that is offered by the Committee to corroborate the Evidence upon the latter part of the 23 Article. And thereupon Sir *Henry Vane* the younger and Mr. *Pym* are appointed by this Houſe, to declare their whole knowledge concerning the matters contained in the 23 Article againſt the Earl of *Strafford*, and how, and by what means they came to the knowledge thereof, which when they had done, *what Paper was produced by Mr. Pym, and ſo much of it* read by him as concerned the Earl of *Strafford*: And then it was Reſolved upon the Queſtion, That the Paper whereof Mr. *Pym* had now read in part, ſhall be all of it read, which was done; and Notice being given of a Meſſage from the Lords, It was Ordered, That all the Members keep their Seats, and go not out of the Houſe without leave.

Reſolved upon the Queſtion, That the Bill of Attainder of the Earl of *Strafford* of High Treaſon ſhall be now read.

And accordingly the Bill was twice read.

Monday, April 12, 1641. *Poſt Merid.*

The Heads of a Conference to be deſired with the Lords touching the Proceedings againſt the Earl of *Strafford*.

1. The Narrative of the Evidence the Committee intended to have given on *Saturday* laſt, concerning which they reſorted to the Houſe of Commons for further Direction, to which Evidence two Members of this Houſe were ready to depoſe.

The Houſe fell into a great and long Debate of the ſecond Head. And in the mean time Mr. *Hampden* went up to the Lords with this Meſſage, to ſignifie unto their Lordſhips, That this Houſe is now in Debate of a buſineſs of great Importance, which they do intend to Communicate unto their Lordſhips, but are not yet fully ready for a Conference; and therefore they do intreat their Lordſhips would be pleaſed to ſit a little while, and they hope they ſhall come up very ſuddenly unto them.

The

The Earl of *Strafford*'s Committee who retired to prepare the Second Head, after ſome ſtay returned and preſented this following to the Houſe for a Second Head, which was read and allowed of by the Houſe, (*viz.*)

2. That the Houſe having taken Conſideration thereof, did conceive it very material, that in regard of the Danger and Diſtractions of the preſent Times, and that what time might be ſpent in Debate touching the admitting of the Evidence, they Reſolved to come to a general Reply, ſetting aſide that Evidence for this time, ſaving to themſelves their Rights, to make uſe of the ſaid Evidence, for the farther Proſecution of the 23 Article, if their Lordſhips ſhall be unſatisfied concerning the ſame, without admitting the ſaid Earl of *Strafford* to examine upon any of the other Articles, which the Houſe doth do, to the end, that the buſineſs might come to ſome ſpeedy Concluſion, the loſs of time being of extream Danger and ill Conſequence to the Common-wealth, as they conceive.

Mr. *Hampden* brings Anſwer, That the Lords will ſit a convenient time.

3. The Third Head, That upon occaſion of diſcovery of this Evidence, a Paper was read in the Houſe, whereby it did appear, that at the ſame time when the dangers abroad were ſpoken by the Earl of *Strafford*, touching the bringing the *Iriſh* Army into *England*, other words were ſpoken by two others then preſent, deſcyphered by thoſe Letters *L. Arch.* and *L. Cott.* (by which We conceive is meant the Lord Arch-Biſhop of *Canterbury* and Lord *Cottington*,) very full of Pernicious Counſels to the King, and Slander to the Commons Aſſembled in the laſt Parliament; as will appear, if their Lordſhips will be pleaſed to hear the Papers read, which Paper the Committee is commanded to read, and leave it to their Conſideration, and to deſire that their Lordſhips will take ſome courſe, that it may be duly examined by whom theſe words were ſpoken, that there may be ſome further Proceedings, to prevent the dangers that may enſue thereupon, and that thoſe Counſels may be looked into, and ſearched to the bottom.

Theſe three Heads were all ſeverally put to the Queſtion, and by Reſolution upon the Queſtion, Ordered to be the Heads of this Conference.

Mr. *Stroud* went up to the Lords with this Meſſage, to deſire a Conference with their Lordſhips, by a Committee of both Houſes, touching the Proceedings againſt the Earl of *Strafford*, and ſome other matters lately diſcovered.

Ordered, That at the next ſitting of the Houſe the Bill for the Attainder of the Earl of *Strafford* ſhall be read the ſecond time, and Mr. Speaker is to put the Houſe in mind of this Order.

A Meſſage from the Lords by Mr. *Heath* and Serjeant *Glanvil*.

The Lords deſire a preſent Conference, by a Committee of both Houſes, in the *Painted-Chamber*, if it may ſtand with the conveniency of this Houſe, concerning the laſt Conference about the Proceedings againſt the ſaid Earl.

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will give a preſent meeting as is deſired.

The Committee appointed to manage the Evidence at the Trial, are appointed Reporters of this Conference.

Mr. *Glyn* Reports the Conference with the Lords to this purpoſe:

That the Lord Steward ſpake in the Name of the Lords, and did declare, That their Lordſhips are Reſolved this Houſe may proceed, as formerly was intended, before the offer of further Evidence to be pro-

propounded, the Earl of *Strafford* to recollect his Evidence firſt, and that being done, the Members of the Houſe of Commons to ſtate their Evidence, and this to be done to morrow morning, whereof they will give the Earl of *Strafford* Notice.

Tueſday, April 13, 1641. *Poſt Merid.*

The Houſe only met and adjourned till the next morning.

Wedneſday, April 14, 1641. *Poſt Merid.*

An Act was read the ſecond time for the Attainder of *Thomas* Earl of *Strafford* of High Treaſon, upon the Queſtion, Committed unto a Committee of the whole Houſe, Mr. Speaker ſitting by.

The Order for Reſolving the Houſe into a Committee, to Conſider of the Bill, for the Attainder of *Thomas* Earl of *Strafford* of High Treaſon, was read, and accordingly the Houſe was Reſolved into a Committee, and Mr. *Peard* called to the Chair.

Then Mr. Speaker aſſumed the Chair.

A Meſſage from the Lords by Judge *Reeves* and Serjeant *Glanvile*, That their Lordſhips have appointed to hear the Council of the Earl of *Strafford* to morrow at Eight of the Clock in *Weſtminſter-Hall*, concerning the matter of Law.

Thurſday, April 15, 1641. *Poſt Merid.*

Mr. *Arthur Capel* went up to the Lords with a Meſſage, To deſire a free Conference by a Committee of both Houſes, concerning the Proceedings againſt *Thomas* Earl of *Strafford*, ſo ſoon as it may ſtand with their Lordſhips conveniency.

Mr. *Solicitor*,	Mr. *Pym*,
Mr. *Maynard*,	Mr. *Whitlock*,
Mr. *Glyn*,	Mr. *Whiſtler*,
Sir *John Culpepper*,	Mr. *Stroud*,

As a Committee are to retire preſently into the Committee-Chamber, to prepare Heads for a Conference, concerning the Proceedings againſt the Earl of *Strafford*.

Mr. *Maynard* Reports from this Committee, the Heads of the Conference to be deſired with the Lords, concerning the Proceedings againſt the Earl of *Strafford*, to this effect.

1. To offer unto their Lordſhips, That it was laſt night Five of the Clock before this Intimation of their Lordſhips Intentions to hear the Earl of *Strafford*'s Council, came to this Houſe.

2. That upon ſome Conferences heretofore had with their Lordſhips, a ſaving was made by this Houſe in the Point, Whether Counſel ſhould be heard or not? And it's not now time to conſider, Whether they ſhould depart from this ſaving.

3. Great difficulties to know to what purpoſe the Counſel ſhall be heard, the Caſe not being ſtated, agreed on, or made, when to propound the danger and inconveniencies; if his Council make a Caſe, and ravel into all our Evidence in ſuch an Auditory; and whether to put the Caſe

as

as it is alledged in the Articles, That the Evidence of Fact being given, it was in Propoſitions, from the beginning, to go by way of Bill, and that a Bill is Exhibited here for his Attainder.

That the Proceedings, by way of Bill, ſtands in no way of oppoſition to thoſe Proceedings, that have already been in this buſineſs. Theſe ſeveral Conſiderations make more difficulty in this Houſe, than to come to a ſudden and preſent Reſolution.

Reſolved upon the Queſtion, That theſe ſhall be the Heads of this Conference; the Committee appointed to prepare the Heads, are likewiſe appointed to manage and Report the Conference, if occaſion be.

Mr. *Maynard* Reports, That the Earl Marſhall acquainted them, that he had made a Report of what had been delivered by the Houſe of Commons, and they had entred into Debate about it, and ſo ſoon as they had come to a Reſolution, they would ſend Anſwer by Meſſengers of their own. But in the mean time they had put off the hearing of the Earl of *Strafford*'s Counſel for this day.

Ordered, That the Houſe be Reſolved into a Committee, to Debate further the Bill of Attainder of *Thomas* Earl of *Strafford*.

A Meſſage from the Lords by Judge *Foſter* and Mr. *Heath*, That the Lords deſire a free Conference, by a Committee of both Houſes, concerning the buſineſs of the Proceedings againſt the Earl of *Strafford* preſently, (if it may ſtand with the conveniency of this Houſe) in the *Painted-Chamber*.

Anſwer returned by the ſame Meſſengers, That this Houſe will give a meeting preſently, as is deſired.

The ſame Commitee that managed the Conference this morning, are to manage this, and to Report it, if occaſion be. Mr. *Fines* is added to the Committee; if any new matter be propounded by the Lords at this Conference, the Committee is to give no Anſwer unto it, but to Report it to the Houſe.

Mr. *Whitlock* Reports this Conference, That the Lord *Say* told them, That they had taken into Conſideration the great buſineſs, and were not abſolutely Reſolved how it ſhould proceed, that the Earl of *Strafford*'s Counſel ſhould have Notice to attend there to morrow, and ſhould not ſpeak to any matter of Fact, but to matter of Law; only it was afterwards ſaid by another Lord, That the time was ſo ſhort, that they had Reſolved not to ſend for him, till they heard from this Houſe.

Friday, April 16, 1641. *Poſt Merid.*

Ordered, That the Houſe do firſt take into Conſideration the Report of the Conference with the Lords Yeſterday, concerning the Proceedings againſt the Earl of *Strafford*.

Reſolved upon the Queſtion, That it is ſufficiently proved, That the Earl of *Strafford* hath endeavoured to ſubvert the ancient and Fundamental Laws of the Realms of *England* and *Ireland*, and to introduce Arbitrary and Tyrannical Government againſt Law.

Mr. *Peard* went up to the Lords with a Meſſage to this effect:

That this Houſe at preſent is in Debate of a great buſineſs, and fear they cannot come to a Reſolution ſo ſoon as to come to their Lordſhips for a Conference this Afternoon; If they can, they Reſolve to ſit this Afternoon, and deſire their Lordſhips to do the like, if it may ſtand with their convenience.

Mr.

Mr. *Peard* brings Anſwer, That their Lordſhips will meet at Four of the Clock.

Reſolved upon the Queſtion, that a Committee of the whole Houſe ſhall hear the Earl of *Strafford*'s Counſel in *Weſtminſter-Hall*, concerning matter of Law.

Ordered, That the Houſe do this Afternoon take the Proceedings againſt the Earl of *Strafford* into further Conſideration.

The Committee is to retire preſently into the Committee-Chamber, to prepare Heads for a Conference to be deſired with the Lords, concerning the further Proceedings againſt the Earl of *Strafford*.

Mr. *Maynard* Reports of the Heads of this Conference to this effect:

1. To take Notice of their Lordſhips Reſolution, to hear the Earl of *Strafford*'s Council in matter of Law.

2. To put their Lordſhips in mind of the ſaving of this Houſe in that Point, and further to tell them, That if after his Council ſhall be heard, any doubt ſhall remain with their Lordſhips, they ſhall be ready to ſatisfie them in due time.

3. That to this end they do intend to ſend a Committee of this Houſe, only to hear what his Council ſhall ſay. Theſe Particulars raiſed ſome Debate in the Houſe, and being put to the Queſtion, the Houſe was divided upon it; but yet after the Tellers were appointed, the *Noes* yielded to the *Yeas* without telling.

4. To deſire that their Lordſhips will be pleaſed to uſe all Expedition to put an end to this Trial, as much as in Juſtice may be.

5. To deſire a continuance of their Care, that the Council, under colour of ſpeaking to the matter of Law, ravel not into the matter of Fact.

Sir *Robert Harly* went up to the Lords, to deſire a free Conference with their Lordſhips by a Committee of both Houſes, upon the free Conference had Yeſterday with their Lordſhips, concerning the further Proceedings againſt the Earl of *Strafford*.

Sir *Robert Harly* brings Anſwer, That their Lordſhips will give a preſent meeting, as is deſired.

The Committee that was appointed to prepare Heads for the Conference, concerning the further Proceedings againſt the Earl of *Strafford*, are to manage this Conference, and to Report it, if occaſion be.

Ordered, That the Committee formerly appointed to preſerve places for the Committee of the whole Houſe in *Weſtminſter-Hall*, do apply their Endeavours in that Service.

A Meſſage from the Lords by Juſtice *Foſter* and Juſtice *Heath*, That the Lords have ſent this Meſſage, that they will be ſet to morrow at ten in the Forenoon in *Weſtminſter Hall*, to hear the Earl of *Strafford*'s Council in matter of Law.

Saturday, April 17, 1641. *Poſt Merid.*

Ordered, That the Houſe be Reſolved into a Grand Committee, to take into further Conſideration the Bill of Attainder of *Thomas* Earl of *Strafford*.

Mr. Speaker left the Chair, Mr. *Peard* was called to the Chair of the Grand Committee, and Mr. Speaker again aſſumed the Chair.

Ordered, That the Debate of the Bill of Attainder of the Earl of *Strafford*, be reſumed on *Monday* morning at Seven of the Clock.

Monday, April 19, 1641.

Ordered, That after the Conference ſhall be ended, the Houſe ſhall again be Reſolved into a Committee, to reſume the farther Debate of the Earl of *Strafford*, and all the Members are required to return from the Conference to the Houſe.

Reſolved upon the Queſtion, That the endeavour of *Thomas* Earl of *Strafford* to ſubvert the Ancient and Fundamental Laws of the Realm of *England* and *Ireland*, and to Introduce an Arbitrary and Tyrannical Government, againſt Law, in both theſe Kingdoms, is High Treaſon.

The Lord Digby's *Speech to the Houſe of Commons, to the Bill of Attainder of the Earl of* Strafford, April 21, 1641.

Mr. Speaker, We are now upon the Point of giving (as much as in Us lies) the Final Sentence unto Death or Life on a great Miniſter of State, and Peer of this Kingdom, *Thomas* Earl of *Strafford*, a Name of hatred in the preſent Age, by his Practices, and fit to be made a Terrour to future Ages by his Puniſhment.

I have had the Honour to be Imployed by the Houſe in this great buſineſs, from the firſt hour that it was taken into Conſideration; It was matter of great Truſt, (and I will ſay with confidence) that I have ſerved the Houſe in it both with Induſtry, according to my ability, and with moſt exact Faithfulneſs and Secrecy.

And as I have hitherto diſcharged my Duty to this Houſe, and to my Country, in the Progreſs of this great Cauſe, ſo I truſt I ſhall do now in the laſt period of it, to God and to a good Conſcience.

I do wiſh the peace of that unto my ſelf, and the bleſſings of Almighty God to me and my Poſtirity, according as my judgment on the life of this Man ſhall be conſonant with my heart and the beſt of my underſtanding in all Integrity.

I know well Mr. Speaker, that by ſome things I have ſaid of late, whilſt this Bill was in agitation, I have raiſed ſome prejudices upon me in the Cauſe.

Yea ſome (I thank them for their plain dealing) have been ſo free as to tell me, that I ſuffered much by the backwardneſs I have ſhewn in this Bill of Attainder of the Earl of *Strafford*, againſt whom I had been formerly ſo keen and ſo active.

Mr. Speaker, I beg of you and the reſt but a ſuſpenſion of Judgment concerning me, till I have opened my heart unto you freely and clearly in this buſineſs.

Truly Sir, I am ſtill the ſame in my Opinions and Affections, as unto the Earl of *Strafford*, I confidently believe him the moſt dangerous Miniſter, the moſt inſupportable to free Subjects that can be charactared.

I believe his Practices in themſelves have been as High, as Tyrannical as any Subject ever ventured on, and the Malignity of them are hugely aggravated by thoſe rare abilities of his, whereof God hath given him the uſe, but the Devil the application (in a word) I believe him ſtill that grad Apoſtate to the Common-wealth, who muſt not expect to be pardoned in this World, till he be diſpatched to the other. And yet let me tell you Mr. Speaker, my hand muſt not be to that diſpatch, I proteſt, as my Conſcience ſtands informed, I had rather it were off.

Let

Let me unfold unto you the myſtery Mr. Speaker, I will not dwell much upon juſtifying unto you my ſeeming variance at this time from what I was formerly, but by putting you in mind of the difference between Proſecutors and Judges.

How misbecoming that fervour would be in a Judge, which perhaps was commendable in a Proſecutor; Judges we are now, and muſt put on another Perſonage.

It is honeſt and noble to be earneſt in order to the diſcovery of Truth, but when that hath been brought as far as it can to light, our judgment thereupon ought to be calm and cautious.

In Proſecution upon Probable Grounds, we are accountable only for our induſtry or remiſneſs, but in judgment; We are deeply reſponſible to God Almighty, for it's Rectitude or Obliquity in Caſes of Life, the Judge is God's Steward of the Parties blood, and muſt give a ſtrict account for every drop.

But as I tould you Mr. Speaker, I will not inſiſt long upon the Ground of Difference in me now, from what I was formerly.

The truth on't is, Sir, the ſame Ground whereupon I (with the reſt of the Five, to whom you firſt committed the Conſideration of my Lord *Strafford*) brought down our Opinion, that it was fit he ſhould be Accuſed of Treaſon, upon the ſame Ground, I was engaged with earneſtneſs in his Proſecution, and had the ſame Ground remained in that force of belief with me, which till very lately it did, I ſhould not have been tender in his Condemnation. But truly, Sir, to deal plainly with you, that Ground of our Accuſation, That Spur to our Proſecution, and that which ſhould be the baſis of my Judgment, of the Earl of *Strafford*, as unto Treaſon, is to my underſtanding quite vaniſhed away.

This, it was, Mr. Speaker.

His Adviſing the King to employ the Army of *Ireland*, to reduce *England*.

This I was aſſured would be proved, before I gave my conſent to his Accuſation. I was confirmed in the ſame belief, during the Proſecution, and fortified in it moſt of all ſince Sir *Henry Vane's* preparatory Examination, by the aſſurances which that worthy Member Mr. *Pym* gave me, that his Teſtimony would be made convincing, by ſome Notes of what paſſed at that *Junto* concurrent with it, which I ever underſtanding to be of ſome other Councellor, you ſee now, prove but a Copy of the ſame Secretaries Notes, diſcovered and produc'd in the manner you have heard, and thoſe ſuch diſjoynted Fragments of the Venemous part of Diſcourſes, no Reſults, no Concluſions of Counſels, which are the only things that Secretaries ſhould Regiſter, there being no uſe at all of the other, but to Accuſe and bring men into danger.

But, Sir, this is not that which overthrows the Evidence with me concerning the Army of *Ireland*, nor yet, that all the reſt of the *Junto*, upon their Oaths, remember nothing of it.

But Sir, this, which I ſhall tell you, is that which works with me, under favour, to an utter overthrow of his Evidence, as unto that of the Army of *Ireland*; before, whilſt I was a Proſecutor, and under tie of Secrecy, I might not diſcover any weakneſs of the Cauſe, which now as a Judge I muſt.

Mr. Secretary was examined thrice upon Oath, at the preparatory Committee.

The first time he was questioned to all the Interrogatories, and to that part of the Seventh, which concerns the Army of *Ireland*: He said positively in these words, *I cannot charge him with that.* But for the rest, he desires time to recollect himself, which was granted him.

Some days after he was Examined a second time, and then deposes these words, concerning the King's being Absolved from Rules of Government, and so forth, very clearly. But being prest to that part, concerning the *Irish* Army, he said again, *I can say nothing to that.*

Here we thought we had done with him, till divers weeks after, my Lord of *Northumberland*, and all others of the *Junto*, denying to have heard any thing concerning those words, Of reducing *England* by the *Irish* Army. It was thought fit to Examine the Secretary once more, and then he deposes these words to have been said by the Earl of *Strafford* to his Majesty, *You have an Army in* Ireland, *which you may imploy here, to reduce* (or some word to that sense) *this Kingdom.*

Mr. Speaker, these are the Circumstances which, I confess with my Conscience, thrust quite out of doors that Grand Article of our Charge, concerning his desperate Advice to the King, of Employing the *Irish* Army here.

Let not this, I beseech you, be driven to an Aspersion upon Mr. Secretary, as if he should have Sworn otherwise than he knew or believed; he is too worthy to do that, only let thus much be inferred from it, that he, who twice upon Oath, with time of recollection, could not remember any thing of such a business, might well a third time mis-remember somewhat in this business, the difference of one letter, here for there, or that for this, quite alters the Case, the latter also being more probable, since it is confest of all hands, that the Debate then was concerning a War with *Scotland*; and you may remember, that at the Bar he once said, To employ there. And thus, Mr. Speaker, I have faithfully given you an account what it is that hath blunted the edge of the Hatchet or Bill with me towards my Lord of *Strafford.*

This was that whereupon I Accused him with a free heart, Prosecuted him with earnestness, and had it, to my understanding, been proved, should have condemned him with Innocence. Whereas now I cannot satisfie my Conscience to do it.

I profess, I can have no notion of any bodies intent to subvert the Laws Treasonably, or by force; and this design of Force not appearing, all his other wicked Practises cannot amount so high with me.

I can find a more ease and more natural Spring, from whence to derive all his other Crimes, than from an intent to bring in Tyrancy, and to make his own Posterity, as well as Us, Slaves; as from Revenge, from Pride, from Avarice, from Passion, and Insolence of Nature.

But had this of the *Irish* Army been proved, it would have diffused a Complexion of Treason over all, it would have been a Withe, indeed to bind all those other scattered and lesser branches, as it were, into a Faggot of Treason.

I do not say but the rest may represent him a man as worthy to die, but perhaps worthier than many a Traytor. I do not say, but they may justly direct Us to Enact, that they shall be Treason for the future.

But God keep me from giving Judgment of Death on any man, and of Ruine to his Innocent Posterity, upon a Law made *à Posteriori.*

Let the Mark be set on the door where the Plague is, and then let him that will enter die.

I know,

I know, Mr. Speaker, there is in Parliament a double Power of Life and Death by Bill, a Judical Power, and a Legiſlative; the meaſure of the one, is what's legally juſt; of the other, what is Prudentially and Politickly fit for the good and preſervation of the whole. But theſe two, under favour, are not to be confounded in Judgment: We muſt not piece up want of legality with matter of convenience, not the defailance of prudential fitneſs with a pretence of legal Juſtice.

To Condemn my Lord of *Strafford* Judicially, as for Treaſon, my Conſcience is not aſſured that the mattar will bear it.

And I do it by the Legiſlative Power, my reaſon conſultively cannot agree to that, ſince I am perſwaded, neither the Lords nor the King will paſs the Bill, and conſequently that Our paſſing it will be a Cauſe of great Diviſions and Combuſtions in the State.

And therefore my humble advice is, That laying aſide this Bill of Attainder, We may think of another, ſaving only Life, ſuch as may ſecure the State from my Lord of *Strafford*, without endangering it, as much by Diviſion concerning his Puniſhment, as he hath endangered it by his Practices.

If this may not be harkned unto, Let me conclude, in ſaying that unto you all, which I have throughly inculcated to mine own Conſcience upon this occaſion. Let every man lay his hand upon his Heart, and ſadly conſider what We are going to do, with a Breath, either Juſtice or Murther; Juſtice on the one ſide, or Murther hightned and aggravated to its ſupreameſt extent. For as the *Caſuiſts* ſay, That he who lies with his Siſter commits Inceſt, But he that marries his Siſter ſins higher, by applying God's Ordinance to his Crime: So doubtles he that commits Murther with the Sword of Juſtice, heightens that Crime to the utmoſt.

The danger being ſo great, and the Caſe ſo doubtful, that I ſee the beſt Lawyers *in diametral oppoſition concerning it: Let every man wipe his Heart, as he doth his Eyes, when he would Judge of a nice and ſubtile* Object. The Eye if it be pretincted with any colour, is vitiated in its diſcerning. Let us take heed of a blood-ſhotten Eye in Judgment.

Let every man purge his Heart clear of all paſſions, (I know this great and wiſe Body-politick can have none, but I ſpeak to individuals, from the weakneſs which I find in my ſelf) away with perſonal Animoſities, away with all flatteries to the people, in being the ſharper againſt him, becauſe *he is odious to them*; away with all fears, leaſt by the ſparing his blood they may be incens'd; away with all ſuch Conſiderations, as that *it is not* fit for a Parliament, that one Accuſed by it of Treaſon, ſhould eſcape with Life.

Let not former Vehemence of any againſt him, nor fear from thence, that he cannot be ſafe while that man lives, be an ingredient in the Sentence of any one of Us.

Of all theſe Corruptives of Judgment, Mr. Speaker, I do before God diſcharge my ſelf to the uttermoſt of my Power.

And do with a clear Conſcience waſh my hands of this mans blood, by this ſolemn Proteſtation, That my Vote goes not to the taking of the Earl of *Strafford*'s Life.

Ordered, That the Debaite of the Bill of Attainder of the Earl of *Strafford*, be reſumed to morrow Morning at Eight of the Clock, and Mr. Speaker is to put the Houſe in mind of this Order.

Ordered,

Ordered, that Sir *Edward Cook*'s Book, *Of the Pleas of the Crown*, be delivered to the Earl of *Strafford*'s Committee, for the ſpecial Service of the Houſe.

Tueſday, April 20, 1641. *Poſt Merid.*

The Committee, according to Yeſterdays Order, reaſſumed the Debate of the Bill of Attainder of the Earl of *Strafford*.

Mr. Speaker reſumed the Chair.

Ordered, that the Houſe ſit this Afternoon at Three of the Clock, and reaſſume the Debate of the Bill of Attainder againſt *Thomas* Earl of *Strafford*.

(Afternoon.) The Houſe Reſolved into a Committee, Mr. *Peard* being called to the Chair, then Mr. Speaker reaſſumed the Chair.

Ordered, That the further Debate of the Bill of Attainder of the Earl of *Strafford*, be reaſſumed to morrow Morning at Eight of the Clock.

Wedneſday, April 21, 1641. *Poſt Merid.*

According to an Order Yeſterday made, the Houſe was Reſolved into a Committee to Conſider of the Bill of Attainder againſt *Thomas* Earl of *Strafford*. Mr. *Perad* being called to the Chair, then Mr. Speaker reaſſumed the Chair.

Ordered, That the Doors be lock'd, and the Keys brought up to the Table, and that no man go out without leave of the Committee.

Mr. *Perad* again called to the Chair.

Mr. *Perad* Reports from the Grand Committee the Bill of Attainder of the Earl of *Strafford*, with the Additions and Amendments thereunto, the which Addition and Amendments were twice read, and the Bill upon the Queſtion Ordered to be Engroſſed.

(Afternoon.) Ordered, That the Houſe meet this Afternoon at Three of the Clock, and the third time read an Act for the Attainder of *Thomas* Earl of *Strafford* of High Treaſon; and upon the Queſtion for the Paſſing, the Houſe was divided. The Lord *Digby*, Mr. *Lloyd* Tellers for the *Yeas*, Sir *Gilbert Gerrard*, Sir *Thomas Barinton* Tellers for the *Noes*; with the *Noes* 59, with the *Yeas* 204, upon the Report thereof the Bill Paſt.

Mr. *Pym* is appointed to carry up the Bill to the Lords, and was further Ordered to expreſs unto the Lords, That it is a Bill that highly concerns the Common-wealth, eſpecially in the expediting of it.

Mr. *Pym* acquaints the Houſe, That according to the Commands of this Houſe, he had delivered the Bill of Attainder, with ſpecial Recommendations for the Expedition in regard of the Importance, and that this Houſe was ready to juſtifie the Legality of the Bill, if any way their Lordſhips ſhould deſire a Conference by a Committee of both Houſes; the ſooner and the more publick the way, ſhall be the better, and the more agreeable to the deſires of this Houſe.

Thurſday, April 22, 1641. *Poſt Merid.*

A Meſſage from the Lords by Judge *Reeve* and Judge *Forſter*.

The Lords have agreed to hear the Houſe in *Weſtminſter-Hall* at Eight of the Clock on *Saturday* next, touching the matter of Law in the buſineſs of the Earl of *Strafford*, if this Houſe ſhall ſo pleaſe.

Anſwer

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will ſend an Anſwer by Meſſengers of their own.

Mr. Solicitor St. *John* is enjoyned by this Houſe to maintain the legal part of the Bill of Attainder of *Thomas* Earl of *Strafford* on *Saturday* Morning next, and Mr. *Maynard* and Mr. *Glyn* are adjoyned unto him as Aſſiſtants.

Sir *John Eveling* went up to the Lords with this Meſſage, to deſire a ffee Conference by a Committee of both Houſes, Concerning their Lordſhips Meſſage ſent this day, touching the matter of Law in the Caſe of the Trial of the Earl of *Strafford.*

Mr. *Pym*, Mr. *Pierepoint*, Sir *John Culpepper*, Mr. *Fines*, Mr. *Hampden*, and Mr. *Prideaux*, are to prepare Heads for this Conference with the Lords, and to manage the Conference.

Sir *John Eveling* brings Anſwer, That their Lordſhips will give a preſent meeting, by a Committee of the whole Houſe, as is deſired.

The Heads of the Conference, Reported by Mr. *Pierepoint*, to be deſired with the Lords, touching the matter of Law in the Caſe of the Earl of *Strafford.*

That this Houſe received a Meſſage from their Lordſhips this day, to this effect, That their Lordſhips are ready to hear this Houſe in *Weſtminſter-Hall* on *Saturday* Morning next, touching the Point of Law in the Caſe of *Thomas* Earl of *Strafford*, they conceive, this did ariſe from the Meſſage of this Houſe upon the delivery of the Bill of Attainder of the Earl of *Strafford.* That this Houſe is ready at a Conference by a Committee of both Houſes, to juſtifie the Juſtice and Legality of the Bill of Attainder.

Mr. *Pym*, Mr. *Stroud*, Sir *Thomas Barrington*, Mr. *Hollis*, and Sir *Jo. Hotham*, are to prepare Heads for this Conference, and to manage it.

Mr. *Pierepoint* Reports the Conference had with the Lords, touching the matter of Law, in the Caſe of the Earl of *Strafford.* My Lord Privy-Seal ſaid, That the intention of their Houſe was to have proceeded in the former way, to have heard the Council upon the legal part; but ſince it is your deſire to have a Committee of both Houſes, to meet at the time and place before appointed; the day being now far ſpent, and finding ſomething of moment to be conſidered of, their Lordſhips will ſend an Anſwer by Meſſengers of their own in time convenient, and therefore ſhall not meet on *Saturday* in *Weſtminſter-Hall*, but will ſit on *Saturday* in their own Houſe.

Friday, April 23, 1641. *Poſt Merid.*

Exceptions were taken by divers Members of the Houſe to the Lord *Digby*, for many Paſſages in a Speech of his, dilivered at the paſſing of the Bill of Attainder of the Earl of *Strafford.* The Lord *Digby* roſe up, and in his place explained himſelf, touching thoſe ſeveral Paſſages, and there was no more done thereupon at this time.

Saturday, April 24, 1641. *Poſt Merid.*

Two Petitions from divers of the Citizens of *London* were this day read. (1.) To the Houſe of Commons. (2.) To the Honourable Aſſembly of the Lords and Commons, as followeth:

To

The Petition of divers Citizens of *London* to both Houſes of Parliament, wherein is an accompt of their Grievances, together with their deſires for Juſtice to be executed upon the E. of *Strafford*, and other Delinquents.

To the moſt Honourable Aſſembly of the Lords and Commons in this preſent Parliament.

The humble Petition of divers Citizines of London.

SHEWETH,

THat notwithſtanding His Majeſties Gracious Anſwer, to the humble Petition of his Loyal Subjects, in Summoning this Parliament, with the great Care and Endeavoured pains taken by both Houſes, for there moving the heavy Grievances in Church and Common-wealth; whereof the Petitioners have already received ſome Fruit, for which they deſire to return their moſt humble and utmoſt Thanks; yet nevertheleſs they are enforced, with all Humility, to repreſent to this moſt Honourable Aſſembly, ſome of thoſe Obſtructions which do ſtill hinder that freedom and fulneſs of Trade in this City they have formerly had, and, which conſidering the numerous multitude thereupon depending, they conceive it not able comfortably to ſubſiſt.

As the unſetled Condition of the Kingdom, even ſince the Troubles in *Scotland*, hath cauſed both Strangers, and alſo ſome of our own, who did furniſh great Sums of Money to uſe, to call it in, and remit much of it by Exchange into Forreign Parts, and ſtand now in expectation of what the Iſſue of things may be.

The ſtopping Money in the Mint, which till then was accounted the ſafeſt place, and ſureſt Staple in theſe Parts of the World, ſtill doth hinder the Importation of Bullion; the *Scots* now diſabled to pay ſuch Debts as they owe to the Petitioners, and others in the City; and by reaſon of the Oppreſſions exerciſed in *Ireland*, their Debts alſo are detained there.

The *Engliſh*-Trade, by reaſon of our general Diſtractions and Fears, is ſo much decayed, that Country Tradeſ-men cannot pay their Debts in *London* as formerly.

The Great Sums of Money unduly taken by his Majeſties Officers and Farmers, for Impoſitions upon Marchandize Exported and Imported, and the want of Relief in Courts of Juſtice againſt them.

The drawing out from the City great Sums of Money (which is the Life and Spirit of Trade) for his Majeſties Service in the *North*, and being there employed, is not yet returned.

Beſides all which, from what ſtrong and ſecret Oppoſition the Petitioners know not; they have not received what ſo much time and pains might give and cauſe to hope, but ſtill Incendiaries of the Kingdoms and other Notorious Offenders, remain unpuniſhed: The Affairs of the Church, notwithſtanding many Petitions concerning it, and long Debate about it, remains unſetled; the *Papiſts* ſtill Armed, the Laws againſt them not Executed; ſome of the moſt Active of them ſtill at Court, Prieſts and Jeſuits not yet Baniſhed, the *Iriſh* Popiſh Army not yet Diſbanded, Courts of Juſtice not yet Reformed, and the Earl of *Strafford*, who as now appears, hath Counſelled the Plundering of this City, and putting it to Fine and Ranſom; and ſaid, It would never be well, till ſome of the Aldermen were hang'd up, becauſe they would not yield to Illegal

Levies

Levies of Monies, had ſo drawn out and ſpent this time in his buſineſs, to the very great Charge of the whole Kingdom, and his endeavour to obtain yet more, all which makes us fear there may be Practices now in hand to hinder the Birth of your great Endeavours, and that we lie under ſome more dangerous Plot than we can diſcover.

All which Premiſſes, with their Fears and Diſtractions, growing therefrom, and from things of the like nature; the Petitioners humbly offer to the moſt grave Conſideration of this moſt Honourable Aſſembly, as being the true Cauſes of decay of Trade, diſcouragement of Tradeſ-men, and of the great ſcarcity of Monies, with the Conſequences they labour under.

And do humbly pray, That their ſaid Grievances may be Redreſſed, the Cauſes of their Fears removed, Juſtice executed upon the ſaid Earl, and other Incendiaries and Offenders, the rather, in regard till then the Petitioners humbly conceive neither Religion, nor their Lives, Liberties, or Eſtates can be ſecured.

And as in Duty bound, they ſhall ever pray, *&c.*

Subſcribed to the Petition 20000, all Men of good Rank and Quality.

After the Petition was Read and Conſidered.

The Lord *Ruſſel* goes up to the Lords with this Meſſage, to deſire a Conference, by a Committee of both Houſes, concerning a Petition from the City of *London*, directed to both Houſes of Parliament.

Mr. *Glyn* is Ordered to manage this Conference, and Mr. *Hill* to aſſiſt him, and to deliver the Petition from the Citizens of *London* at this Conference, and thence to take occaſion of repreſenting the Deſires of this Houſe; likewiſe for the Expiditing of the Bill of Attainder of the Earl of *Straſſord*.

Monday, April 26, 1641. *Poſt Merid.*

A Meſſage from the Lords by Judge *Reeves* and Judge *Heath*, That they are ready for a Conference, by a Committee of both Houſes, to the Petition preſented from *London*, for which this Houſe ſent a Meſſage on *Saturday* laſt.

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and will give a meeting preſently, as is deſired.

According to an Order on *Saturday* laſt, Mr. *Glyn* and Mr. *Hill* went up to manage this Conference, and Sir *Walter Earle* is Ordered to manage Mr *Pym*'s part, in reſpect of his abſence at this time.

Tueſday, April 27, 1641. *Poſt Merid.*

A Meſſage from the Lords by Judge *Foſter* and Judge *Heath*, That their Lordſhips will be ready to meet at a Conference, by a Committee of both Houſes, at Nine of the Clock upon *Thurſday* Morning in *Weſtminſter-Hall*, and there to hear this Houſe, according to their own offer, when they brought up the Bill of Attainder of the Earl of *Straſſord*.

Anſwer returned by the ſame Meſſengers, That this Houſe has taken their Lordſhips Meſſage into Conſideration, and is Reſolved to give a meeting at the time and place, as is appointed.

Wedneſday, April 28th. 1641. *Poſt Merid.*

Ordered, That Mr. Solicitor *St. John* have Power to ſend for ſuch Records, as he ſhall think needful for that Service committed unto him, for maintaining the Point of Law, in the Caſe of the Earl of *Straſford.*

The ſame Committee as was formerly appointed to keep the Doors at *Weſtminſter-Hall,* is appointed to keep the Doors again to morrow.

Mr. Solicitor, and Mr. *Maynard,* and Mr. *Glyn,* appointed as Aſſiſtants unto him, are to ſit in the moſt convenient places in the middle of the lower Rank.

Mr. *Edward Hide* went up to the Lords with this Meſſage, to acquaint their Lordſhips, That the Houſe hath received ſuch Information, as hath moved ſome Fears in them, that the Earl of *Strafford* may have a deſign to Eſcape, that he hath Ships at Sea at Command, and that the Guards about him are weak; therefore to deſire their Lordſhips he may be a cloſe Priſoner, and the Guards ſtrengthened.

Mr. *Hide* brings this Anſwer, That their Lordſhips had heretofore given Directions to the Lieutenant of the *Tower,* that he ſhould be cloſe Priſoner, and take care for a ſtronger Guard, and will take it into Examination, and give Directions as is deſired.

Friday, April 30, 1641. *Poſt Merid.*

Ordered, That Mr. Solicitor be required from this Houſe, to bring in a particular Copy of his Argument Yeſterday in *Weſtminſter-Hall,* and likewiſe that Mr. *Pym* bring him a Copy of the Speeches ſpoken by him in *Weſtminſter-Hall,* both at the beginning and latter end of the Trial of the Earl of *Strafford.*

A Copy

A Copy of the Paper poſted up at the Corner of the Wall of Sir William Bronkard's *Houſe, in the* Old Palace-Yard *in* Weſtminſter, *declaring the following Names to be Enemies of Juſtice.*

The Lord *Digby*,
Lord *Compton*,
Lord *Buckhurſt*,
Sir *Robert Hatton*,
Sir *Thomas Fanſhaw*,
Sir *Edward Alford*.
Nicholas Slanning,
Sir *Thomas Danby*,
Sir *George Wentworth*,
Sir *Peter Wentworth*,
Sir *Fred. Conwallis*,
Sir *William Carnaby*,
Sir *Richard Winn*,
Sir *Gervas Cliffton*,
Sir *William Withrington*,
Sir *William Pennyman*,
Sir *Patrick Carwin*,
Sir *Richard Lee*,
Sir *Henry Slingsby*,
Sir *William Portman*,
Mr. *Gervas Hollis*,
Mr. *Sydney Godolphin*,
Mr. *Cook*,
Mr. *Coventry*,
Mr. *Kirton*,
Mr. *Pollard*,
Mr. *Price*,
Mr. *Trevanyon*,
Mr. *Jeane*,
Mr. *Edgcombe*,
Mr. *Ben. Weſton*,
Mr. *Selden*,
Mr. *Alford*,
Mr. *Loyd*,
Mr. *Herbert*,
Captain *Digby*,
Serjeant *Hyde*,
Mr. *Tayler*,
Mr. *Richard Weſton*,
Mr. *Griffith*,
Mr. *Scawen*,
Mr. *Bridgman*,
Mr. *Fettyplace*,
Doctor *Turner*,
Captain *Charles Price*,
Doctor *Parry* a Civilian,
Mr. *Richard Arundel*,
Mr. *Newport*,
Mr. *Nowell*,
Mr. *Chichley*,
Mr. *Mallory*,
Mr. *Porter*,
Mr. *White*, Secretary to *E. D*
Mr. *Warwick*.

A Memorial of the Member that firſt took the Names.

It is a Preſumption that theſe Names were thus Poſted up by ſome of thoſe who came in multitudes to the Parliament Houſe, but he that took the Liſt of their Names (as Mr. *Elſing* told the Author) was one Mr. *W*---- who ſerved for ſome Borough in the County of *Wilts*, and who did not afterwards go to the King at *Oxford* in time of War, though his Wife did; but he ſtaid in the Parliament to do what friendly Office he could for the King and his Party: It is probable he gave a Copy of thoſe Names to ſome Friends, not intending to have the ſame made Publick in that manner. The Name of one Member of the Houſe that was in the Liſt, who is omitted in this, *viz.* Sir *John Strangwayes*, who was not then in Town, but Sir *John*, after his return out of *Dorſetſhire*, complained that his Name was Poſted up amongſt others, and moved, that the buſineſs might be Examined how the Liſt came abroad, and was made Publick, as aforeſaid, he being then in the Country.

Wedneſday, May 5, 1641.

Mr. Solicitor is appointed to bring in his Argument he made in *Weſtminſter-Hall*, at the Trial of the Earl of *Strafford* on *Monday* laſt.

A Meſſage from the Lords by Judge *Reeves* and Judge *Forſter*, That they give this Houſe Thanks for ſitting ſo long, that they are ſtill in Debate of the Bill againſt the Earl of *Strafford*, ſo that this Night they cannot be ready for a Conference.

Saturday May 8, 1641.

A Meſſage from the Lords by Judge *Forſter* and Judge *Heath*, That the Bill of Attainder of *Thomas* Earl of *Strafford* is paſſed their Houſe, without any Alteration or Amendments.

Ordered, That a Meſſage be ſent to the Lords, to deſire a free Conference, by a Committe of both Houſes, concerning the Bill of Attainder of *Thomas* Earl of *Strafford.*

Mr. *Hotham* is to go up with this Meſſage, Mr. *Pym* is to manage this Conference, the ſubſtance whereof is:

That in regard the Peace of the Kingdom doth much conſiſt in the Execution of the Bill of Attainder of *Thomas* Earl of *Strafford*, to deſire their Lordſhips to move His Majeſty as ſpeedily as may be to give His Aſſent.

Mr. *Hotham* brings Anſwer, That the Lords will give a preſent meeting at a free Conference, by a Committee of both Houſes, as is deſired.

Mr. *Pym* Reports, That he had performed the Command of this Houſe.

Ordered, That this Houſe ſhall joyn with the Lords, to attend His Majeſty, to appoint a time when He would be pleaſed to ſet, concerning His Aſſent to the Bill of Attainder of *Thomas* Earl of *Strafford.*

Mr. *Pym* brings word, That the Lords have ſent to His Majeſty, and this Houſe ſhall hear from them very ſpeedily.

A Meſſage from the Lords by Judge *Forſter* and Judge *Heath*, That the Lords appointed by their Houſe, attended His Majeſty, who appointed that both Houſes ſhould attend Him at Four of the Clock in the *Banqueting-Houſe*, concerning the Bill of Attainder: That they have Paſſed the Bill concerning the not Diſſolving the Parliament.

Monday, May 10, 1641.

The Gentleman-Uſher of the Black-Rod came to ſignifie to the Houſe, That His Majeſties Aſſent to the Bill of Attainder is now to be given by Commiſſion, and that the Lords did expect Mr. Speaker and the Houſe of Commons to come up.

Articles

Articles of the Commons Aſſembled in Parliament againſt *Thomas* Earl of *Strafford*, in Maintenance of their Accuſation, whereby he ſtands Charged with High Treaſon.

WHereas the ſaid Commons have already Exhibited Articles againſt the ſaid Earl, in hæc verba, Now the ſaid Commons do further Impeach the ſaid Earl as followeth, (That is to ſay)

I.

That the ſaid Earl of Strafford the 21ſt day of March, in the Eighth Year of His Majeſties Reign, was Preſident of the King's Council in the Northern parts of England.

That the ſaid Earl being Preſident of the ſaid Council on the 21ſt of March, a Commiſſion under the Great Seal of England, with certain Schedules of Inſtructions thereunto annexed, was directed to the ſaid Earl, or others the Commiſſioners therein named, whereby, among other things, Power and Authority is limited to the ſaid Earl, and others the Commiſſioners therein named, to hear and determine all Offences, and Miſdemeanors, Suits, Debates, Controverſies and Demands, Cauſes, Things and Matters, whatſoever therein contained, and within certain Precincts in the ſaid Northern Parts therein ſpecified, and in ſuch manner as by the ſaid Schedule is limited and appointed.

That, amongſt other things, in the ſaid Inſtructions, it is directed, That the ſaid Preſident, and others therein appointed, ſhall hear and determine according to the courſe of Proceedings in the Court of Star-Chamber, divers Offences, Deceits and Falſities therein mentioned, whether the ſame be provided for by Acts of Parliament or not, ſo that the Fines impoſed be not leſs than by the Act or Acts of Parliament provided againſt thoſe Offences is appointed.

That alſo among other things in the ſaid Inſtructions, it is directed, That the ſaid Preſident, and others therein appointed, have Power to examine, hear, and determine, according to the courſe of Proceedings in the Court of Chancery, all manner of Complaints, for any matter, within the ſaid Precincts, as well concerning Lands, Tenements, and Hereditaments, either Free-hold, Cuſtomary, or Copy-hold, as Leaſes, and other things therein mentioned, and to ſtay Proceedings in the Court of Common Law by Injunction, or otherwiſe, by all ways and means, as is uſed in the Court of Chancery.

And although the former Preſidents of the ſaid Council had never put in practiſe ſuch Inſtructions, nor had they any ſuch Inſtructions, yet the ſaid Earl in the month of May in the ſaid Eighth Year, and divers years following, did put in practice, exerciſe and uſe, and cauſed to be uſed and put in practice the ſaid Commiſſion and Inſtructions, and did direct and exerciſe an exorbitant and unlawful Power and Juriſdiction over the Perſons and Eſtates of His Majeſties Subjects, in thoſe parts, and did diſinherit divers of His Majeſties

Sub-

Subjects in thoſe parts of their Inheritances, Sequeſtred their Poſſeſſions, and did Fine, Ranſom, Puniſh and Impriſon them; and cauſed them to be Fined, Ranſomed, Puniſhed and Impriſon, to their Ruine and Deſtruction; and namely, Sir Coniers Darcy, Sir John Bourcher, and divers others, againſt the Laws, and in ſubverſion of the ſame. And the ſaid Commiſſion and Inſtructions were procured and iſſued by advice of the ſaid Earl.

And he the ſaid Earl, to the intent that ſuch Illegal and Unjuſt Power might be exerciſed with the greater Licence and Will, did adviſe, counſel, and procure further Directions; in and by the ſaid Inſtructions to be given, that no Prohibition be granted at all, but in caſes where the ſaid Council ſhall exceed the limits of the ſaid Inſtructions: And that if any Writ of Habeas Corpus be granted, the party be not diſcharged till the party perform the Decree and Order of the ſaid Council.

And the ſaid Earl in the 13th Year of His Majeſties Reign, did procure a new Commiſſion to himſelf, and others therein appointed, with the ſaid Inſtructions, and other unlawful Additions.

That the ſaid Commiſſion and Inſtructions were procured by the ſolicitation and advice of the ſaid Earl of Strafford.

II.

That ſhortly after the obtaining of the ſaid Commiſſion, dated the 21ſt of March, in the Eighth Year of His Majeſties Reign, (to wit) the laſt day of Auguſt then next following, he the ſaid Earl (to bring His Majeſties Leige-people into a diſlike of His Majeſty, and of His Government, and to terrifie the Juſtices of the Peace from executing of the Laws: He the ſaid Earl, being then Preſident, as aforeſaid, and a Juſtice of Peace) did publickly at the Aſſizes held for the County of York, in the City of York, in and upon the ſaid laſt day of Auguſt, declare and publiſh before the people, there attending for the adminiſtration of Juſtice according to Law, and (in the preſence of Juſtices ſitting) that ſome of the Juſtices were all for Law, and nothing would pleaſe them but Law; but they ſhould find that the King's little Finger ſhould be heavier than the Loines of the Law.

III.

That the Realm of Ireland having been time out of mind annexed to the Imperial Crown of this His Majeſties Realm of England, and Governed by the ſame Laws: The ſaid Earl being Lord Deputy of that Realm, to bring His Majeſties Liege-Subjects of that Kingdom likewiſe into diſlike of His Majeſties Government, and intending the ſubverſion of the Fundamental Laws, and ſetled Government of that Realm, and the deſtruction of His Majeſties Leige-people there, did upon the 30th day of September, in the Ninth Year of His now Majeſties Reign, in the City of Dublin (the chief City of that Realm, where His Majeſties Priby-Council, and Courts of Juſtice do ordinarily reſide, and whither the Nobility and Gentry of that Realm do uſually reſort for Juſtice,) in a publick Speech before divers of the Nobility and Gentry of that Kingdom, and before the Mayor, Aldermen, and Recorder, and many Citizens of Dublin, and other His Majeſties Leige-people, declare and publiſh, That Ireland was a Conquered

quered Nation, and that the King might do with them what he pleased: And ſpeaking of the Charters of former Kings of England made to that City, he further then ſaid, That their Charters were nothing worth, and did binde the King no further than He pleaſed.

IV.

That Richard Earl of Corke, having ſued out Proceſs in courſe of Law, for recovery of his Poſſeſſions, from which he was put, by colour of an Order made by the ſaid Earl of Strafford, and the Council-Table of the ſaid Realm of Ireland, upon a Paper Petition, without Legal proceeding, did the 20th day of February, in the 11th year of his now Majeſties Reign, threaten the ſaid Earl, (being then a Peer of the ſaid Realm) to impriſon him, unleſs he would ſurceaſe his Suit, and ſaid, That he would have neither Law nor Lawyers, diſpute or queſtion his Orders. And the 20th day of March in the ſaid 11th year, the ſaid Earl of Strafford, ſpeaking of an Order of the ſaid Council-Table of that Realm, made in the time of King James, which concerned a Leaſe which the ſaid Earl of Corke claimed in certain Rectories or Tythes, which the ſaid Earl of Corke alledged to be of no force, ſaid, that he would make the ſaid Earl, and all Ireland know, that ſo long as he had the Government there, any Act of State there made, or to be made, ſhould be as binding to the Subjects of that Kingdom, as an Act of Parliament; and did queſtion the ſaid Earl of Corke in the Caſtle-Chamber there, upon pretence of breach of the ſaid Order of Council-Table; and did ſundry other times, and upon ſundry other occaſions, by his words and Speeches, Arrogate to himſelf a Power above the Fundamental Laws, and Eſtabliſhed Government of that Kingdom; and ſcorned the ſaid Laws and Eſtabliſhed Government.

V.

That according to ſuch his Declarations and Speeches, the ſaid Earl of Strafford did uſe and exerciſe a Power above, and againſt, and to the Subverſion of the ſaid Fundamental Laws, and Eſtabliſhed Government of the ſaid Realm of Ireland, extending ſuch his Power, to the Goods, Free-holds, Inheritances, Liberties, and Lives of His Majeſties Subjects of the ſaid Realm; and namely, the ſaid Earl of Strafford, the Twelfth day of December, Anno Domini 1635. in the time of full Peace, did in the ſaid Realm of Ireland, give, and procure to be given, againſt the Lord Mountnorris (then, and yet a Peer of the ſaid Realm of Ireland, and then Vice-Treaſurer, and Receiver-general of the Realm of Ireland, and Treaſurer at War, and one of the principal Secretaries of State, and Keeper of the Privy Signet of the ſaid Kingdom) a Sentence of death by a Council of War, called together by the ſaid Earl of Strafford without any Warrant, or Authority of Law, or Offence deſerving any ſuch puniſhment. And he the ſaid Earl, did alſo at Dublin, within the ſaid Realm of Ireland, in the month of March, in the Fourteenth year of His Majeſties Reign, without any Legal or due Proceedings, or Trial, give, and cauſe to be given, a Sentence of Death againſt one other of His Majeſties Subjects, whoſe name is yet unknown; and cauſed him to be put to Death in Execution of the ſame Sentence.

VI.

VI.

That the ſaid Earl of Strafford, without any Legal Proceedings, and upon a Paper-Petition of Richard Rolſton, did cauſe the ſaid Lord Mountnorris to be diſſeiſed, and put out of Poſſeſſion of his Freehold and Inheritance of his Mannor of Tymore in the County of Armath, in the Kingdom of Ireland, the ſaid Lord Mountnorris having been 18 years before in quiet poſſeſſion thereof.

VII.

That the ſaid Earl of Strafford, in the Term of holy Trinity, in the Thirteen year of his now Majeſties Reign, did cauſe a Caſe, commonly called The Caſe of Tenures upon defective Titles, to be made and drawn up without any Jury or Tryal, or other Legal Proceſs, and without the conſent of Parties, and did then procure the Judges of the ſaid Realm of Ireland, to deliver their Opinions and Reſolutions to that caſe, and by colour of ſuch Opinion, did without any Legal proceeding, cauſe Thomas Lord Dillon, a Peer of the ſad Realm of Ireland, to be put out of the poſſeſſion of divers Lands and Tenements, being his Freehold in the Country of Mayo and Roſcomen, in the ſaid Kingdom, and divers other of His Majeſties Subjects to be put out of Poſſeſſion, and diſſeiſed of their Freehold by colour of the ſame Reſolution, without Legal proceedings, whereby many hundreds of His Majeſties Subjects were undone, and their Families utterly ruinated.

VIII.

That the ſaid Earl of Strafford, upon a Petition of Sir John Gifford Knight, the firſt day of February, in the ſaid Thirteenth Year of His Majeſties Reign, without any Legal Proceſs, made a Decree or Order againſt Adam Viſcount Loftus of Ely, a Peer of the ſaid Realm of Ireland, and Lord Chancellor of Ireland, and did cauſe the ſaid Viſcount to be impriſoned, and kept cloſe Priſoner, on pretence of Diſobedience to the ſaid Decree or Order.

And the ſaid Earl, without any Authority, and contrary to his Commiſſion, required and commanded the ſaid Lord Viſcount to yield up unto him the Great Seal of the Realm of Ireland, which was then in his Cuſtody, by His Majeſties Command, and impriſoned the ſaid Chancellor for not obeying ſuch his Command.

And without any Legal Proceeding, did in the ſame Thirteenth Year impriſon George Earl of Kildare, a Peer of Ireland, againſt Law, thereby to enforce him to ſubmit his Title to the Mannor and Lordſhip of Caſtleleigh in the Queens Country, (being of great yearly value) to the ſaid Earl of Strafford's will and pleaſure, and kept him a year priſoner for the ſaid cauſe; two months whereof he kept him cloſe priſoner, and refuſed to enlarge him, notwithſtanding His Majeſties Letters for his Enlargement to the ſaid Earl of Strafford directed.

And upon a Petition exhibited in October, Anno Domini 1635. by Thomas Hibbots, againſt Dame Mary Hibbots Widow, to him the ſaid Earl of Strafford; the ſaid Earl of Strafford recommended the ſaid

Peti-

Petition to the Council-Table of Ireland, where the moſt part of the Council gave their Vote and Opinion for the ſaid Lady; but the ſaid Earl finding fault herewith, cauſed an Order to be entred againſt the ſaid Lady, and threatned her, that if ſhe refuſed to ſubmit thereunto, he would impriſon her, and fine her Five hundred Pounds; that if ſhe continued obſtinate, he would continue her Impriſonment, and double her Fine every month; by means whereof ſhe was enforced to relinquiſh her Eſtate in the Lands queſtioned in the ſaid Petition, which ſhortly after were conveyed to Sir Robert Meredith, to the uſe of the ſaid Earl of Strafford.

And the ſaid Earl in like manner did impriſon divers others of His Majeſties Subjects, upon pretence of Diſobedience to his Orders, Decrees, and other illegal Command by him made for pretended Debts, Titles of Lands, and other Cauſes in an Arbitrary and extrajudicial courſe, upon Paper-Petitions, to him preferred, and no Cauſe legally depending.

IX.

That the ſaid Earl of Strafford, the ſixteenth day of February, in the Twelfth year of His Majeſties Reign, aſſuming to himſelf a Power above, and againſt Law, took upon him by a general Warrant under his hand, to give Power to the Lord Biſhop of Downe and Connor, his Chancellor, or Chancellors, and their ſeveral Officers thereto to be appointed, to Attach and Arreſt the Bodies of all ſuch of the meaner and poorer ſort, who after citation, ſhould either refuſe to appear before them, or appearing, ſhould omit, or deny to perform, or undergo all Lawful Decrees, Sentences and Orders, iſſued, impoſed, or given out againſt them, and them to Commit, and keep in the next Goal, until they ſhould either perform ſuch Sentences, or put in ſufficient Bail, to ſhew ſome reaſon before the Council-Table, of ſuch their contempt and neglect; and the ſaid Earl, the day and year laſt mentioned, ſigned and iſſued a warrant to that effect; and made the like Warrants to ſeveral other Biſhops, and their Chancellors, in the ſaid Realm of Ireland, to the ſame effect.

X.

That the ſaid Earl of Strafford being Lord Lieutenant, or Deputy of Ireland, procured the Cuſtoms of the Merchandize Exported out, and Imported into that Realm, to be farmed to his own Uſe.

And in the Ninth Year of His now Majeſties Reign, he having then Intereſt in the ſaid Cuſtoms (to advance his own Gain and Lucre) did cauſe and procure the native Commodities of Ireland, to be rated in the Book of Rates for the Cuſtoms (according to which the Cuſtoms were uſually gathered) at far greater Values and Prizes than in truth they were worth (that is to ſay) every Hide at Twenty ſhillings, which in truth was worth but Five ſhillings, every Stone of Wooll at Thirteen ſhillings four pence, though the ſame were really worth but Five ſhillings, at the utmoſt Nine ſhillings; by which means, the Cuſtom, which before was but a twentieth part of the true value of the Commodity, was enhanced ſometimes a

Fifth part, and ſometimes to a fourth, and ſometimes to a third part of the true value, to the great Oppreſſion of the Subjects, and decay of Merchandiſe.

XI.

That the ſaid Earl, in the Ninth Year of His Majeſties Reign, did by his own Will and Pleaſure, and for his own Lucre, reſtrain the Exportation of the Commodities of that Kingdom without his Licence, as namely, Pipe-ſtaves, and other Commodities, and then raiſed great Sums of Money for Licences of Exportation of thoſe Commodities, and diſpenſation of the ſaid Reſtraints impoſed on them, by which means the Pipe-ſtaves were raiſed from Four pound ten ſhillings, or Five pound per thouſand, to ten pounds, and ſometimes Eleven pound per thouſand; and other Commodities were enhanced in the like proportion, and by the ſame means, by him the ſaid Earl.

XII.

That the ſaid Earl, being Lord Deputy of Ireland, on the Ninth day of January, in the Thirteenth Year of his now Majeſties Reign, did then under colour to regulate the Importation of Tobacco into the ſaid Realm of Ireland, iſſue a Proclamation in His Majeſties Name, prohibiting the Importation of Tobacco, without Licence of Him and the Council there, from and after the Firſt day of May, Anno Dom. 1638. after which Reſtraint, the ſaid Earl, notwithſtanding the ſaid Reſtraint, cauſed divers great quantities of Tobacco to be Imported to his own uſe, and fraughted divers Ships with Tobacco, which he Imported to his own uſe: and that if any Ship brought Tobacco into any Port there, the ſaid Earl, and his Agents, uſed to buy the ſame to his own uſe, at their own price; and if that the Owners refuſed to let him have the ſame at under values, then they were not permitted to vent the ſame there; by which undue means, the ſaid Earl having gotten the whole Trade of Tobacco into his own hands, he ſold it at great and exceſſive prizes, ſuch as he liſt to Impoſe for his own profit.

And the more to aſſure the ſaid Monopoly of Tobacco, he the ſaid Earl on the Three and twentieth day of February, in the Thirteenth Year aforeſaid, did iſſue another Proclamation, commanding that none ſhould put to ſale any Tobacco by Whole-ſale, from and after the laſt day of May, then next following, but what ſhould be made up into Rolls, and the ſame ſealed with two Seals by himſelf appointed, one at each end of the Roll. And ſuch as was not ſealed, to be ſeized, appointing ſix pence the pound for a Reward to ſuch perſons as ſhould ſeize the ſame: and the perſons in whoſe cuſtody the unſealed Tobacco ſhould be found, to be committed to Goal; which laſt Proclamation was coloured by a pretence for the reſtraining of the ſale of unwholeſome Tobacco, but it was truly to advance the ſaid Monopoly.

Which Proclamation the ſaid Earl did rigorouſly put in execution, by ſeizing the Goods, Fining, Impriſoning, Whipping, and putting the Offenders againſt the ſame Proclamation on the Pillory; as namely, Barnaby Hubbard, Edward Cavena, John Tumen, and divers others; and made the Officers of State, and Juſtices of Peace, and other Officers to ſerve him in the compaſſing and executing theſe unjuſt

juſt and undue Courſes; by which Cruelties, and unjuſt Monopolies, the ſaid Earl raiſed 100000 l. per Annum Gain to himſelf. And yet the ſaid Earl, though he enhaunced the Cuſtoms, where it concerned the Merchants in general, yet drew down the Impoſt formerly taken on Tobacco from Six Pence the Pound to Three Pence the Pound, it being for his own Profit ſo to do.

And the ſaid Earl, by the ſame, and other Rigorous and Undue Meanes, raiſed ſeveral other Monopolies, and Unlawful Exactions for his own Gain, viz. on Starch, Iron-pots, Glaſſes, Tobacco-pipes, and ſeveral other Commodities.

XIII.

That Flax being one of the princial and Native Commodities of that Kingdom of Ireland, the ſaid Earl having gotten Great Quantities thereof into his Hands, and growing on his own Lands, did Iſſue out ſeveral Proclamations, viz. The one Dated the One and Thirtieth of May, in the Twelfth of His Majeſties Reign; and the other Dated the One and Thirtieth day of January, in the ſame Year; Thereby preſcribing and enjoyning the Working of Flax into Yarn and Thread, and the ordering of the ſame in ſuch wayes, wherein the Natives of that Kingdom were unpractiſed and unskilful: Which Proclamations ſo Iſſued, were, by his Commands and Warrants to His Majeſties Juſtices of Peace, and other Officers, and, by other Rigorous Meanes put in Execution; and the Flax wrought, or ordered in other manner then as the ſaid Proclamation preſcribed, was Seized and employed to the Uſe of him and his Agents: and thereby the ſaid Earl endeavoured to gain, and did gain in effect the Sole Sale of that Native Commodity.

XIV.

That the ſaid Earl, by Proclamation dated the Sixteenth of October, in the Fourteenth Year of His Majeſties Reign, did impoſe upon the Owners, Maſters, Purſers, and Boat-Swaines of every Ship, a new and unlawful Oath, viz. That they (or two or more of them) immediately after the arrival of any Ship within any Port or Creek in the ſaid Kingdom of Ireland, ſhould give in a true In-voice of the outward bulk of Wars and Merchandizes firſt laden aboard them, together with the ſeveral marks and number of Goods, and their qualities and condition of the ſaid Goods, as far as to them ſhould be known, the Names of the ſeveral Merchants Proprietors of the ſaid Goods, and the place from whence they were Fraughted, and whither they were Bound to diſcharge; which Proclamation was accordingly put in Execution, and ſundry perſons enforced to take the ſaid unlawful Oath.

XV.

That the ſaid Earl of Strafford trayterouſly and wickedly deviſed and contrived, by force of Arms, and in a Warlike manner, to ſubdue the Subjects of the ſaid Realm of Ireland, and to bring them under his Tyrannical Power and Will; and in purſuance of his wicked and trayterous Purpoſes aforeſaid, the ſaid Earl of Strafford, in the Eighth Year of His Majeſties Reign, did, by his own Au-

thority, without any Warrant or colour of Law, Tax and Impose great Sums of Money upon the Towns of Baltemore, Bauden-Bridge, Talowe, and divers other Towns and Places in the said Realm of Ireland; and did cause the same to be levied upon the Inhabitants of those Towns by Troops of Souldiers, with force and Arms, in a War-like manner. And on the Ninth day of March, in the Twelfth Year of His now Majesties Reign, traiterously did give Authority unto Robert Savile, a Serjeant at Arms, and to the Captains of the Companies of Souldiers, in several parts of that Realm, to send such numbers of Souldiers to lie on the Lands and Houses of such as would not conform to his Orders, untill they should render Obedience to his said Orders and Warrants, and after such submission (and not before) the said Souldiers to return to their Garrisons. And did also issue the like Warrants unto divers others, which Warrants were in War-like manner, with Force and Arms, put in Execution accordingly; and by such War-like means did force divers of His Majesties Subjects of that Realm, to submit themselves to his unlawful Commands.

And in the said Twelfth Year of His Majesties Reign, the said Earl of Strafford did traiterously cause certain Troops of Horse and Foot, armed in War-like manner, and in War-like array, with Force and Arms, to expel Richard Butler from the Possession of the Mannor of Castle-Cumber, in the Territory of Idough, in the said Realm of Ireland, and did likewise, and in like War-like manner, expel divers of His Majesties Subjects from their Houses, Families, and possessions; as namely, Edward O Brenman, Owen Oberman, John Brenman, Patrick Oberman, Sir Cyprian Horsefield, and divers others, to the number of about an hundred Families, and took and imprisoned them and their Wives, and carried them Prisoners to Dublin, and there detained, untill they did yield up, surrender, or release their respective Estates and Rights.

And the said Earl, in like War-like manner, hath during his Government of the said Kingdom of Ireland, subdued divers others of His Majesties Subjects there to his will, and thereby, and by the means aforesaid, hath levied War within the said Realm against His Majesty and His Liege-people of that Kingdom.

XVI.

That the Earl of Strafford, the Two and twentieth of February, in the Seventh Year of His Majesties Reign, intending to Oppress the said Subjects of Ireland, did make a Proposition, and obtained from His Majesty an Allowance thereof, That no Complaint of Injustice or Oppression done in Ireland, should be received in England against any, unless it appeared, that the party made first his address to him the said Earl; and the said Earl having by such Usurped tyrannical and exorbitant Power, expressed in the former Articles, Destroyed and Oppressed the Peers, and other Subjects of that Kingdom of Ireland, in their Lives, Consciences, Land, Liberties and Estates; the said Earl to the intent the better to maintain and strengthen his said Power, and to bring the People into a disaffection of His Majesty, as aforesaid, did use His Majesties Name in the execution of the said Power.

And to prevent the Subjects of that Realm of all means of Complaints to His Majesty, and of redress against him and his Agents,

did

did iſſue a Proclamation, bearing date the Seventeenth day of September, in the Eleventh Year of His Majeſties Reign, thereby commanding all the Nobility, Undertakers, and others who held Eſtates and Offices in the ſaid Kingdom, (except ſuch as were employed in His Majeſties Service, or attending in England by His ſpecial Command) to make their perſonal reſidence in the ſaid Kingdom of Ireland, and not to depart thence without Licence of himſelf.

And the ſaid Earl hath ſince iſſued other Proclamations to the ſame purpoſe, by means whereof the Subjects of the ſaid Realm are reſtrained from ſeeking relief againſt the Oppreſſions of the ſaid Earl, without his Licence; which Proclamation the ſaid Earl hath by ſeveral rigorous ways, as by Fine, Impriſonment, and otherwiſe, put in execution on His Majeſties Subjects; as namely, one —— Parry, and others, who came over only to complain of the Exorbitances and Oppreſſions of the ſaid Earl.

XVII.

That the ſaid Earl having by ſuch means, as aforeſaid, ſubverted the Government and Laws of the Kingdom of Ireland, did, in March, in the Sixteenth Year of His Majeſties Reign, in ſcandal of His Majeſties Government, of all His Kingdoms; and in further Execution of his wicked Purpoſes aforeſaid, ſpeaking of the Army in Ireland, declare, That His Majeſty was ſo well pleaſed with the Army of Ireland, and the conſequences thereof, that His Majeſty would certainly make the ſame a Pattern for all His Three Kingdoms.

XVIII.

That the ſaid Earl of Strafford, for the better effecting of his traiterous Deſigns, and wicked Purpoſes, did endeavour to draw dependency upon himſelf of the Papiſts in both Kingdoms of England and Ireland, and to that end, during the time of his Government in Ireland, he reſtored divers Fryeries and Maſs-Houſes, (which had been formerly ſuppreſſed by the precedent Deputies of that Kingdom; two of which Houſes are in the City of Dublin, and had been aſſigned to the uſe of the Univerſity there) to the pretended Owners thereof, who have ſince employed the ſame to the Exerciſe of the Popiſh Religion.

And in the Month of May and June laſt, the ſaid Earl did raiſe an Army in the ſaid Realm, conſiſting of 8000 Foot, all of which, except one, or thereabouts, were Papiſts, and the ſaid One thouſand were drawn out of the old Army there, conſiſting of Two thouſand Foot, and in their places there were a thouſand Papiſts, or thereabouts, put into the ſaid old Army by the ſaid Earl.

And the more to engage and tie the ſaid new Army of Papiſts to himſelf, and to encourage them, and to diſcourage and weary out the ſaid old Army, the ſaid Earl did ſo provide: That the ſaid new Army of Papiſts were duly paid, and had all Neceſſaries provided for them, and permitted the Exerciſe of their Religion, but the ſaid old Army were for the ſpace of one whole Year and upwards unpaid.

And

And the ſaid Earl being appointed a Commiſſioner within eleven ſeveral Counties of the Northern parts of England, for Compounding with Recuſants for their Forfeitures due to His Majeſty; which Commiſſion beareth date the Eighth day of July, in the Fifth Year of His Majeſties Reign that now is; and being alſo Receiver of the Compoſition-money thereby ariſing, and of other Debts, Duties, and Penalties, by reaſon of Recuſancy within the ſaid Counties, for His Majeſties Uſe, by Letters Patents dated the Ninth day of the ſame July; He to engage the ſaid Recuſants to him, did Compound with them at low and under Rates, and provided, that they ſhould be diſcharged of all Proceedings againſt them in all His Majeſties Courts, both Temporal and Eccleſiaſtical, in manifeſt breach of, and contrary to the Laws and Statutes of this Realm, in that behalf Eſtabliſhed.

XIX.

That the ſaid Earl having Taxed and Levied the ſaid Impoſitions, and raiſed the ſaid Monopolies, and committed the ſaid other Oppreſſions in His Majeſties Name; and as by His Majeſties Royal Command, he the ſaid Earl in May, the Fifteenth Year of His Majeſties Reign, did of his own authority contrive and frame a new and unuſual Oath, by the purport whereof, among many other things, the party taking the ſaid Oath, was to ſwear that he ſhould not proteſt againſt any His Majeſties Royal Commands, but ſubmit himſelf in all due obedience thereunto. Which Oath he ſo contriv'd to enforce the ſame on the Subjects of the Scotiſh Nation, inhabiting in Ireland, and out of a hatred to the ſaid Nation, and to put them to a diſcontent with His Majeſty, and His Government there; and compelled divers of His Majeſties ſaid Subjects there to take the ſaid Oath againſt their wills; and of ſuch as refuſed to take the ſaid Oath, ſome he grievouſly fined and impriſoned, and others he deſtroyed and exiled; and namely, the Tenth of October, Anno Dom. 1639, he fined Henry Steward and his Wife, who refuſed to take the ſaid Oath, 5000 l. a piece, and their two Daughters and James Gray 3000 l. a pice, and impriſoned them for not paying the ſaid Fines. The ſaid Henry Steward his Wife and Daughters, and James Gray, being the King's Liege-people of the Scotiſh Nation; and divers others he uſed in like manner; and the ſaid Earl upon that occaſion did declare, That the ſaid Oath did not only oblige them in point of Allegiance to His Majeſty, and acknowledgment of His Supremacy only, but to the Ceremonies and Government of the Church Eſtabliſhed, and to be eſtabliſhed by His Majeſties Royal Authority; and ſaid, That the Refuſers to obey, he would proſecute to the blood.

XX.

XX.

That the ſaid Earl hath in the 15th and 16th years of His Majeſties Reign, and divers years paſt, laboured and endeavoured to breed in His Majeſty an ill Opinion of His Subjects; namely, of thoſe of the Scotiſh Nation, and divers and ſundry times, and eſpecially ſince the pacification made by His Majeſty with His ſaid Subjects of Scotland in Summer, in the 15th Year of His Majeſties Reign, he, the ſaid Earl did labour and endeavour to perſwade, incite and provoke His Majeſty to an offenſive War againſt His ſaid Subjects of the Scotiſh Nation: And the ſaid Earl, by his Counſels, Actions, and Endeavours, hath been, and is a principal and chief Incendiary of the War and Diſcord between His Majeſty and His Subjects of England, and the ſaid Subjects of Scotland, and hath declared and adviſed His Majeſty, that the Demands made by the Scots, in their Parliament, were a ſufficient cauſe of War againſt them.

The ſaid Earl having formerly expreſſed the height and rancour of his mind towards His Majeſties Subjects of the Scotiſh Nation, viz. the Tenth day of October, in the Fifteenth Year of His Majeſties Reign, he ſaid, That the Nation of the Scots were Rebels and Traytors, and he being then about to come to England, he then further ſaid, That if it pleaſed his Maſter (meaning His Majeſty) to ſend him back again, he would root out of the ſaid Kingdom (meaning the ſaid Kingdom of Ireland) the Scotiſh Nation both Root and Branch.

Some Lords, and others, who had taken the ſaid Oath in the precedent Article only excepted: and the ſaid Earl hath cauſed divers of the Ships and Goods of the Scots to be ſtayed, ſeized, and moleſted, to the intent to ſet on the ſaid War.

XXI.

That the ſaid Earl of Strafford, ſhortly after his Speeches mentioned in the laſt precedent Articles, to wit, in the 15th Year of His Majeſties Reign, came into this Realm of England, and was made Lord Lieutenant of Ireland, and continued his Government of that Kingdom by a Deputy: at his arrival here, finding that His Majeſty with much Wiſdom and Goodneſs had compoſed the Troubles in the North, and had a pacification with his Subjects of Scotland; he laboured by all means to procure His Majeſty to break that pacification, incenſing His Majeſty againſt His Subjects of that Kingdom, and the proceeding of the Parliament there.

And having incited His Majeſty to an Offenſive War againſt His Subjects of Scotland by Sea and Land, and by pretext thereof, to raiſe Forces for the maintenance of that War; he counſelled His Majeſty to call a Parliament in England, yet the ſaid Earl intended that if the ſaid proceedings of that Parliament ſhould not be ſuch as would ſtand with the ſaid Earl of Strafford's miſchievous Deſigns, he would then procure His Majeſty to break the ſame; and by ways of Force and Power, to raiſe monies upon the Subjects of this Kingdom, And for the encouragement of His Majeſty to hearken to his advice, he did before His Majeſty and His Privy-Council, then ſitting in Council, make a large Declaration, that he would ſerve His Majeſty in any other way, in caſe the Parliament ſhould not ſupply him.

XXII.

That in the Month of March, before the beginning of the laſt Parliament, the ſaid Earl of Strafford went into Ireland, and procured the Parliament of that Kingdom to declare their Aſſiſtance in a War againſt the Scots, and gave directions for the raiſing of an Army there, conſiſting of 8000 Foot, and 1000 Horſe, being for the moſt part Papiſts, as aforeſaid. And confederating with one Sir George Ratcliffe, did together with him the ſaid Sir George traiterouſly Conſpire to employ the ſaid Army for the ruine and deſtruction of the Kingdom of England, and of His Majeſties Subjects, and of altering and ſubverting of the Fundamental Laws and eſtabliſhed Government of this Kingdom.

And ſhortly after the ſaid Earl of Strafford returned into England, and to ſundry perſons declared his Opinion to be, that His Majeſty ſhould firſt try the Parliament here, and if that did not ſupply him according to his Occaſions, he might uſe then His Prerogative as He pleaſed, to levy what He needed, and that he ſhould be acquitted both of God and man; if he took ſome other Courſes to ſupply himſelf, though it were againſt the wills of His Subjects.

XXIII.

That upon the Thirteenth day of April laſt, the Parliament of England met, and the Commons Houſe (then being the Repreſentative Body of all the Commons in the Kingdom) did according to the Truſt repoſed in them, enter into Debate and Conſideration of the great Grievances of this Kingdom, both in reſpect of Religion, and the publique Liberty of the Kingdom; and His Majeſty referring chiefly to the ſaid Earl of Strafford, and the Archbiſhop of Canterbury, the ordering and diſpoſing of all matters concerning the Parliament: He the ſaid Earl of Strafford with the aſſiſtance of the ſaid Archbiſhop, did procure His Majeſty by ſundry Speeches and Meſſages, to urge the ſaid Commons Houſe to enter into ſome Reſolution for His Majeſties ſupply, for maintainance of His War againſt His Subjects of Scotland, before any courſe taken for the relief of the great and preſſing Grievances, wherewith this Kingdom was then afflicted. Whereupon a Demand was then made from His Majeſty, of Twelve Subſidies, for the releaſe of Ship-money only; and while the ſaid Commons then Aſſembled (with expreſſion of great affection to His Majeſty and his Service) were in Debate and Conſideration concerning ſome ſupply, before any Reſolution by them made, he the ſaid Earl of Strafford, with the help and aſſiſtance of the ſaid Archbiſhop, did procure His Majeſty to diſſolve the ſaid Parliament, upon the Fifth day of May laſt: and upon the ſame day the ſaid Earl of Strafford did treacherouſly, falſly and maliciouſly endeavour to incenſe His Majeſty againſt His loving and faithful Subjects, who had been Members of the ſaid Houſe of Commons, by telling His Majeſty, They had denied to ſupply him. And afterwards upon the ſame day did traiterouſly and wickedly Counſel and Adviſe His Majeſty to this effect, viz. that having tried the affections of His People, he was looſe and abſolved from all rules of Government, and that he was to do every thing that Power would admit, and that His Majeſty had

had tried all ways, and was refuſed, and ſhould be acquitted towards God and man; and that he had an Army in Ireland, (meaning the Army above-mentioned, conſiſting of Papiſts, his dependants, as is aforeſaid) which he might imploy to reduce this Kingdom.

XXIV.

That in the ſame Month of May, he the ſaid Earl of Strafford, falſly, traiterouſly, and maliciouſly, publiſhed and declared before others of His Majeſties Privy Council, That the Parliament of England had forſaken the King, and that in denying to ſupply the King they had given him advantage to ſupply himſelf by other ways; and ſeveral other times he did maliciouſly, wickedly, and falſly, publiſh, and declare, That ſeeing the Parliament had refuſed to ſupply His Majeſty in the ordinary and uſual way, the King might provide for the Kingdom in ſuch wayes, as he ſhould hold fit, and that he was not to ſuffer himſelf to be maſtered by the frowardneſs and undutifulneſs of the People: And having ſo maliciouſly ſlandered the ſaid late Houſe of Commons, he did, with the help and advice of the ſaid Archbiſhop of Canterbury, and the Lord Finch, late Lord Keeper of the Great Seal of England, cauſe to be printed and publiſhed in His Majeſties Name, a falſe and ſcandalous Book, Entituled, His Majeſties Declaration of the Cauſes that moved him to Diſſolve the laſt Parliament, Full of bitter and malicious Invectives, and falſe, and ſcandalous aſperſions againſt the ſaid Houſe of Commons.

XXV.

That not long after the Diſſolution of the ſaid laſt Parliament, (viz. in the months of May and June) he the ſaid Earl of Strafford, did adviſe the King to go on vigorouſly in levying the Ship-money, and did procure the Sheriffs of ſeveral Counties to be ſent for, for not levying the Ship-money, divers of which were threatned by him to be ſued in the Star-Chamber, and afterwards by his advice they were ſued in Star-Chamber, for not levying the ſame, and divers of His Majeſties loving Subjects were ſent for and impriſoned by his advice, for that and other illegal payments.

And a great loan of a hundred thouſand pounds was demanded of the City of London, and the Lord Mayor, and Sheriffs, and Aldermen of the ſaid City were often ſent for, by his advice, to the Council-Table, to give an account of their proceedings in raiſing of Ship-money, and furthering of that loan, and were required to certifie the Names of ſuch Inhabitants of the ſaid City as were fit to lend, which they with much humility refuſing to do, he the ſaid Earl of Strafford did uſe theſe and the like Speeches, viz. That they deſerved to be put to Fine and Ranſom, and that no good would be done with them, till an example were made of them, and that they were laid by the heels, and ſome of the Aldermen hanged up.

XXVI.

That the ſaid Earl by his wicked Counſels, having brought His Majeſty into exceſſive Charge, without any juſt cauſe, he did in the

month of July laſt (for the ſupport of the ſaid great Charges) counſel and approve two dangerous and wicked Projects, viz.

To ſeize upon the Bullion, and the Money in the Mint.

And to imbaſe His Majeſties Coin with the mixtures of Braſs.

And accordingly he procured one hundred and thirty thouſand Pounds which was then in the Mint, and belonging to divers Merchants, Strangers, and others to be ſeized on and ſtayed, to His Majeſties uſe. And when divers Merchants of London, Owners of the ſaid Bullion and Money, came to his houſe to let him underſtand the great miſchief, that courſe would produce here, and in other parts, and what prejudice it would be to the Kingdom, by diſcrediting the Mint, and hindring the importation of Bullion; he the ſaid Earl told them, that the City of London dealt undutifully and unthankfully with His Majeſty, and that they were more ready to help the Rebels than to help His Majeſty. And that if any hurt came to them, they may thank themſelves: and that it was the courſe of other Princes to make uſe of ſuch monies to ſerve their Occaſions.

And when in the ſame month of July, the Officers of His Majeſties Mint came to him, and gave him divers reaſons againſt the imbaſing the ſaid Money, he told them, That the French King did uſe to ſend Commiſſaries of Horſe with Commiſſion to ſearch into mens Eſtates, and to peruſe their Accounts, that ſo they may know what to levy of them by force, which they did accordingly levy; and turning to the Lord Cottington, then preſent, ſaid, That this was a point worthy of his Lordſhips conſideration, meaning this courſe of the French King to raiſe monies by force, was a point worthy of his Lordſhips conſideration.

XXVII.

That in or about the month of Auguſt laſt, he was made Lieutenant General of all His Majeſties Forces in the North, prepared againſt the Scots, and being at York, did then in the Month of September by his own authority, and without any lawful warrant, impoſe a Tax on his Majeſties Subjects in the County of York of eight pence per diem, for maintenance of every Souldier of the Trained Bands of that County, which ſums of Money he cauſed to be levied by force. And to the end to compel His Majeſties Subjects out of fear and terrour to yield to the payment of the ſame, he did declare, that he would commit them that refuſed the payment thereof, and the Souldiers ſhould be ſatisfied out of their Eſtates; and they that refuſed it, were in very little better condition than of High Treaſon.

XXVIII.

That in the months of September and October laſt, he the ſaid Earl of Strafford, being certified of the Scotiſh Army coming into the Kingdom, and he the ſaid Earl of Strafford being Lieutenant General of His Majeſties Army, he did not provide for the defence of the Town of Newcaſtle, as he ought to have done, but ſuffered the ſame to be loſt, that ſo he might the more incenſe the Engliſh againſt the Scots.

And for the ſame wicked purpoſe, and out of a malitious deſire to engage the Kingdoms of England and Scotland in a National and bloody War, he did write to the Lord Conway, the General of the Horſe, and under the ſaid Earls Command, that he ſhould fight with the

Scotiſh

Scotiſh Army at the paſſage over the Tyne, whatſoever ſhould follow; notwithſtanding that the ſaid L. Conway had formerly by Letters informed the ſaid Earl, that His Majeſties Army, then under his Command, was not of force ſufficient to encounter the Scots, by which advice of his, he did, contrary to the duty of his place, betray His Majeſties Army, then under his Command, to apparent danger and loſs.

All and every which words, counſels and actions of the ſaid Earl of Strafford were ſpoken, given, and done by him the ſaid Earl of Strafford, traiterouſly, and contrary to his Allegiance to our Soveraign Lord the King, and with an intention and endeavour to alienate and withdraw the hearts and affections of the King's Liege-people of all His Realms from His Majeſty, and to ſet diviſion between them, and to ruine and deſtroy His Majeſty, and Majeſties ſaid Kingdoms, for which they do further impeach him the ſaid Thomas Earl of Strafford of High Treaſon againſt our Sovereign Lord the King, His Crown and Dignity. And he the ſaid Earl of Strafford was Lord Deputy of Ireland, or Lord Lieutenant of Ireland, and Lieutenant General of the Army there under His moſt Excellent Majeſty, and a ſworn Privy-Counſellor to His Majeſty for His Kingdoms both of England and Ireland, and Lord Preſident of the North during the time that all and every the Crimes and Offences before ſet forth were done and committed, and he the ſaid Earl was Lieutenant General of His Majeſties Army in the North parts of England during the time that the Crimes and Offences, in the 27th and 28th Articles, ſet forth were done and committed.

Tueſday, May 11th, 1641.

Ordered, That Mr. *Solicitor* give Order, That the Arguments he made in *Weſtminſter-Hall*, touching the matters of Law in the Caſe of the Earl of *Strafford*, be Printed; and that Mr. *Pym* give the like Order, That his Speeches at the beginning and ending of the Trial of the ſaid Earl of *Strafford* be likewiſe Printed.

THE

THE TRYAL OF T. Earl of Strafford.

The Firſt day.

Monday, March 22, 1640.

THE Lords being ſet in a place prepared in *Weſtminſter-hall*, purpoſely for the Arraignment of *Thomas* Earl of *Strafford*, upon a charge of High Treaſon laid upon him by the Commons Houſe of Parliament, in the Name of themſelves, and of all the Commons of *England*. And the Houſe of Commons being there likewiſe, ſeated as a Committee; and thoſe who were to manage the Evidence on behalf of the Houſe of Commons, being Members of that Houſe, ſtanding at the Bar, The Priſoner was called for; and being brought by Sir *William Balfour*, Lieutenant of the *Tower*, after Obeiſances given, he came to the Barr and kneeled; and after ſtanding up, The Right Honourable *Thomas* Earl of *Arundel* and *Surrey*, Lord High Steward of *England*, ſpake to him as follows. The Priſoner at the Barr.

Your Lordſhip is called here this day before the Lords in Parliament, to Anſwer to, and to be Tryed upon, the Impeachment preſented to them by the Commons Houſe of Parliament, in the Name of Themſelves, and all the Commons of *England*: And that their Lordſhips are reſolved to hear both the Accuſation and Defence, with all Equity. And therefore think fit in the firſt place, That your Lordſhip ſhould hear the Impeachment of High Treaſon read. Lord High Steward.

The Impeachment was accordingly read by the Clerk of the Parliament.

A little after the entrance into it, a Chair was brought to the Priſoner by the Gentleman Uſher, and the Priſoner ſate down thereon by their Lordſhips direction.

After the Charge was read, the Earl of *Strafford*'s Anſwer was likewiſe read. And no more of proceedings that Day.

 30923 Only

Lord High Steward. Only the Lord Steward ſaid further to the Priſoner, That his Lordſhip had heard the whole Impeachment of the Houſe of Commons read; And his own Anſwer: on which he hath put himſelf for Trial. That which is now to follow, their Lordſhips have commanded him to ſay, is the managing of the Evidence by thoſe the Houſe of Commons ſhall pleaſe to appoint, for the proving of this Charge.

But likewiſe they have Commanded him to ſay, That the time being ſo far ſpent, it may not be ſo proper now to proceed further in the buſineſs; That this ſhall be ſate upon only once a day, which will be fitteſt both for their Lordſhips, and for the Houſe of Commons: And that they conceive it will agree with the ſenſe of the Houſe of Commons, not to fall into the particular management of the Evidence ſo late, but to defer it till the morrow, at the hour of nine of the Clock.

E. of *Strafford.* My Lord of *Strafford* did then deſire to know, Whether he might with their Lordſhips good leave and favour, ſay any thing at that time or no?

Lord High Steward. The Lord High Steward anſwered, That their Lordſhips Commandment is, to let his Lordſhip know, That if the Houſe of Commons proceed not by their Members to manage the Evidence this Day, then what his Lordſhip hath to ſay to this Houſe, may be put off to another time.

And ſo their Lordſhips Adjourned to the Houſe above, (by which is meant the Houſe where the Lords uſe to ſit in Parliament) and appointed the next Morning to proceed in this buſineſs.

The Second Day.

Tueſday, March 23, 1640.

Lord High Steward. THeir Lordſhips being ſet, the Lord Steward recited in brief the proceedings of the Day before, adding, that naturally and properly, it belongs (in the next place) for thoſe whom the Houſe of Commons have deputed to manage their Evidence, in purſuance of the Articles of Impeachment, to begin the work of the Day.

Then Mr. *Pym*, one of the Committee appointed for the management of the Evidence, began as followeth.

Mr. *Pym.* *My Lords*,

We ſtand here by the Commandment of the Knights, Citizens and Burgeſſes, now aſſembled for the Commons in Parliament. And we are ready to make good that Impeachment whereby *Thomas* Earl of *Strafford* ſtands charged in their Name, and in the Name of all the Commons of *England*, with High Treaſon.

This, *My Lords*, is a Great Cauſe, and we might ſink under the weight of it, and be aſtoniſhed with the Luſtre of this Noble Aſſembly, if there were

where not in the Cauſe ſtrength and vigour to ſupport it ſelf, and to encourage us; It is the Cauſe of the King, it concerns his Majeſty in the Honour of his Government, in the Safety of his Perſon, in the Stability of His Crown.

It is the Cauſe of the Kingdom, it concerns not only the Peace and Proſperity, but even the being of the Kingdom. We have that piercing Eloquence, the Cries and Groans, and Tears and Prayers of all the Subjects aſſiſting us. We have the three Kingdoms, *England* and *Scotland*, and *Ireland*, in Travail and Agitation with us, bowing themſelves, like the *Hindes* ſpoken of in *Job*, to caſt out their Sorrows.

Truth and Goodneſs (*My Lords*) they are the Beauty of the Soul, they are the Perfection of all created Natures, they are the Image and Character of God upon the Creatures.

This Beauty, Evil Spirits, and Evil Men, have loſt; but yet there are none ſo wicked but they deſire to march under the ſhew and ſhadow of it, though they hate the reality of it.

This unhappy Earl, now the Object of your Lordſhips Juſtice, hath taken as much care, hath uſed as much cunning to ſet a face and countenance of Honeſty and Juſtice upon his Actions, as he hath been negligent to obſerve the rules of Honeſty in the Performance of all theſe Actions. *My Lords*, it is the greateſt baſeneſs of wickedneſs, that it dares not look in his own Colours, nor be ſeen in its natural Countenance. But Virtue, as it is amiable in all reſpects, ſo the leaſt is not this. That it puts a Nobleneſs, it puts a Bravery upon the Mind, and lifts it above Hopes and Fears, above Favour and Diſpleaſure; it makes it always uniform and conſtant to it ſelf.

The Service Commanded me and my Colleagues here, is to take off thoſe Vizards of Truth and Uprightneſs, which hath been ſought to be put upon this Cauſe, and to ſhew you his Actions and his Intentions, in their own natural Blackneſs and Deformity.

My Lords, He hath put on a Vizard of Truth in theſe words, (wherein he ſays) That he ſhould be in his Defence more careful to obſerve Truth, than to gain Advantage to himſelf. He ſays, he would endure any thing rather than be ſaved by Falſhood.

It was a noble and brave Expreſſion if it were really true.

My Lords, He hath likewiſe put on the Vizard of Goodneſs on his Actions, when he deſires to recite his Services in a great many particulars, as if they were Beneficial to the Common-wealth and State, whereas we ſhall prove them Miſchievous and Dangerous.

It is left upon me, *My Lords*, to take off theſe Vizards and Appearances of Truth and Goodneſs, in that part of his Anſwer which is the Preamble. And that I ſhall do with as much Faithfulneſs and Brevity as I can.

1. The firſt thing (*My Lords*) that I ſhall obſerve in the Preamble is this, That having recited all thoſe great and honourable Offices which he hath done under his Majeſty, he is bold to affirm, that he hath been careful and faithful in the Execution of them all.

My Lords, If he might be his own Witneſs, and his own Judge, I doubt not but he would be Acquitted.

It is ſaid in the *Proverbs* of the Adulterous Woman, That ſhe *wipes her mouth*, and ſays, *ſhe had done no Evil.* Here is a wiping of the mouth, here is a verbal expreſſion of Honeſty. But (*My Lords*) the foulneſs and unjuſtneſs will never be wiped off, neither from his Heart, nor from his

Actions; I mean for the time paſt, God may change him for the time to come: That is the firſt thing I obſerve.

2. *My Lords*, In the ſecond place, out of his Apologetical Preamble, I ſhall obſerve this, He doth magnifie his own Endeavours in five particulars: 1. That he hath andeavoured the maintenance of Religion. (I may miſs in words, I ſhall not miſs in ſenſe.) 2. That he hath Endeavoured the Honour of the King. 3. The Encreaſe of His Revenue. 4. The Peace and Honour and Safety of the Kingdom. 5. The quiet and Peace of the People. Theſe are his five Particulars; and I ſhall give a ſhort Anſwer to every one of them.

1. For Religion, (*My Lords*) we ſay, and we ſhall prove, that he hath been diligent indeed to favour Innovations, to favour Superſtitions, to favour the Incroachments and Uſurpations of the Clergy: But for Religion it never received any advantage by him, nay, a great deal of hurt.

2. For the Honour of the King: (*My Lords*) we ſay, it is the Honour of the King that He is the Father of His People, That he is the Fountain of Juſtice; and it cannot ſtand with His Honour and Juſtice to have His Government Stain'd and polluted with *Tyranny* and *Oppreſſion*.

3. For the Increaſe of His Revenue: It is true, there may be ſome Addition of Sums; but we ſay, There is no Addition of Strength nor Wealth, becauſe in thoſe parts where it hath been increaſed, this Earl hath taken the greateſt ſhare himſelf: And when he hath ſpoiled and ravined on the People, he hath been content to yield up ſome part to the King, that he might with more ſecurity enjoy the reſt.

4. For the Strength and Honour, and Safety of the Kingdom: (*My Lords*) In a time of Peace he hath let in upon us the Calamities of War, Weakneſs, Shame and Confuſion.

5. And for the Quiet of the Subjects, He hath been an Incendiary, he hath Armed us amongſt our ſelves, and made us weak and naked to all the World beſides. This is that I ſhall anſwer to the ſecond Head of his Apology.

3. The Third is this, (*My Lords*) That by his means many good and wholſome Laws have been made ſince his Government in *Ireland*.

Truly, (*My Lords*) If we ſhould conſider the particulars of theſe Laws, ſome of them will not be found without great Exception. But I ſhall make another Anſwer, good Laws, nay, the beſt Laws are no advantage when *Will* is ſet above Law, when the Laws have force to bind and reſtrain the Subject, but no force to Relieve and Comfort him.

4. He ſays in the Fourth place, He was a means of calling a Parliament not long after he came to his Government. *My Lords*, Parliaments without Parliamentary Liberties, are but a fair and plauſible way into Bondage; That Parliament had not the Liberties of a Parliament; Sir *Pierce Crosby* for ſpeaking againſt a Bill in the Commons Houſe, was ſequeſtred from the Council-Table, and Committed to Priſon.

Sir *John Clotworthy*, for the ſame Cauſe, was threatned that he ſhould loſe a Leaſe that he had, Mr. *Barnewell*, and two other Gentlemen, were threatned they ſhould have Troops of Horſe put upon them for ſpeaking in the Houſe. Proxies by dozens, were given by ſome of his Favourites: And (*My Lords*) Parliaments coming in with theſe Circumſtances, they be Grievances, Miſchiefs, and Miſeries, no works of Thanks or Honour.

5. The

5. The Fifth is, That he hath been a means to put off Monopolies, and other Projects that would have been Grievous and Burdenſome to the Subject; if he had hated the Injuſtice of a Monopoly, or the Miſchief of a Monopoly, he would have hated it in himſelf; he himſelf would have been no Monopoliſt. Certainly, *My Lords*, It was not the love of Juſtice, nor the Common good, that moved him: And if he were moved by any thing elſe, he had his Reward. It may be it was becauſe he would have no Man gripe them in the Kingdom but himſelf; his own *Harveſt-Crop* would have been leſs, if he had had ſharers. It may be it was becauſe Monopolies hinder Trade, he had the Cuſtoms, and the benefit of the Cuſtoms would have been leſs; when we know the particulars, we ſhall make a fit and proper Anſwer to them: But in the mean time, we are ſure whatſoever was the reaſon, it was not Juſtice, nor love of Truth, that was the reaſon.

6. He ſaith in the ſixth place, He had no other Commiſſion but what his Predeceſſors had: And that he hath executed that Commiſſion with all Moderation. For the Commiſſion, it was no Virtue of his if it were a good Commiſſion, I ſhall ſay nothing of that. But for the ſecond part, his Moderation; when you find ſo many Impriſoned of the Nobility; ſo many Men, ſome adjudged to Death, ſome Executed without Law; when you find ſo many publick Rapines on the State, Soldiers ſent to make good his Decrees; ſo many Whippings in defence of Monopolies; ſo many Gentlemen that were Jurors, becauſe they would not apply themſelves to give Verdicts on his ſide, to be fined in the *Star-Chamber*.

Men of Quality to be diſgraced, ſet on the Pillory, and wearing Papers, and ſuch things, (as it will appear through our Evidence) can you think there was any Moderation. And yet truly, (*My Lords*) I can believe, That if you compare his Courſes with other parts of the World ungoverned, he will be found beyond all in Tyranny and Harſhneſs; but if you compare them with his Mind and Diſpoſition, perhaps there was Moderation; Habits we ſay, are more perfect than Acts, becauſe they be neareſt the Principle of Actions. The Habit of Cruelty in himſelf (no doubt) is more perfect than any Act of Cruelty he hath Committed; but if this be his Moderation, I think, all Men will pray to be delivered from it: And I may truly ſay that is verified in him, *The Mercies of the Wicked are Cruel*.

7. I come to the ſeventh, and that is concerning the King's Revenue That he hath improved it from 57000 *l.* to 120000 *l.* and that he hath done it by Honourable and Juſt ways. That he hath made the Kingdom able to ſupport it ſelf. That he hath improved the King's Revenue by many rich and great Purchaſes. That he hath ſaved the Charge of the Navy, by bearing 7000 *l.* a year in *Ireland*, which was born here before. And then he ſays for a Concluſion, That he never took Money out of the King's Exchequer. *My Lords*, I muſt run over all theſe.

For the Enlargement or Increaſe of the Revenue of that Kingdom, I think there is a little fault in his Arithmetick, but I will not charge him with that now.

But for his Honourable ways of Increaſing it; if Monopolies, if Vexation of the Subject, be Honourable ways, we ſhall leave that to your Lordſhips to judge. But moſt of his Increaſes are made upon Monopolies. It is true, there is another way of bargaining, but it hath been mixed with

with Rigour and Rapine, and Injuſtice. Men have been driven out of their Eſtates; Offices have been found by force. Men have been driven to reſign their Eſtates: And is this a Juſt way of improving a King's Revenue? That I ſhall ſubmit to your Lordſhips.

Then he ſays, He hath made the Kingdom able to Support it ſelf: *My Lords*, He that hath no Harveſt of his own, muſt Glean after another Man's Reapers. Truly, this was none of his work: The Kingdom was able to ſubſiſt of it ſelf before he came thither. For that we ſhall Appeal to the Records of the Exchequer, betwixt the year 1622. and the time of his Government, which was nine years at leaſt, during which, nothing went out of this Kingdom to the ſupport of that Iſland. The 7000 *l.* for the Navy was born in *Ireland* before his time a year or two; ſo he comes near the truth of that, yet miſſes a year of the truth.

But if it were true; hath it been only by the ordinary Revenue that it hath ſupported it ſelf? He hath had ſix Subſidies; a year, or two of Contribution, which the *Iriſh* gave towards the ſupporting of the Charge of *Ireland*. It was not his Husbanding, nor his managing of the Revenue; And truly if the Kingdom were able to ſupport it ſelf, (as it was before he came thither) by the Revenue of the Kingdom, and by the help of that Contribution, it would be very fit, ſince there may be many Increaſes ſince) to know what is become of 300000 *l.* for ſix Subſidies, and of the Contribution money; and indeed there is a great ſuſpicion, that that went another way. But that you may the better obſerve his Huſbandry, I ſhall ſpeak of his laſt years Accompt; the 20*th* of *March*, (now ſomething more than a year ſince) the Under-Treaſurer delivered an Account, on which there was 101000 *l.* remaining in the King's Coffers, Since that time there hath been received 112000 *l.* for the King. (I ſpeak of round Sums, *(My Lords)* I leave out pounds and pence, and ſuch things: This is 213000 *l.* He hath received out of the Exchequer in *England* 50000 *l.* There are Debts in *Ireland*, 60000 *l.* and what other Debts we know not: Here is above 320000 *l.* conſumed in a year; which is almoſt as much as Queen *Elizabeth* conſumed in any year when *Tyrone* was in Rebellion, and an Army of *Spaniards* was there.

My Lords, He ſaith he never took Money out of the Exchequer, if he reſts in that affirmation, it will be very near truth, yet ſerves but to ſhadow a falſhood, which is worſe to cover and to glaze, under ſuch a colour of Truth as that is, a notable Falſhood.

My Lords, It is true, he hath taken no Money out of the Exchequer; but he could be content to take from the Under-Treaſurer of the Exchequer, 24000 *l.* about two years ſince, and to keep it for his own occaſions; when the King's Army was in want: And he paid it in but lately.

And before I paſs from this matter of the Revenue, give me leave to ſpeak ſomething of the increaſe that comes in by the Cuſtoms.

It is true, there is a great increaſe; but if your Lordſhips look to the begining of that bargain, you ſhall find the notableſt cozenage that ever was offered to a Prince, in one that was a Sworn Servant, and intruſted with ſo great a Charge.

It will be more fully opened in the Article that concerns the Cuſtoms; but I ſhall ſpeak of it a little: He made a bargain, and under pretence of getting of 1350 *l.* gain to the King, he gave cauſe of Allowances and Defalcations; whereby he took forth of the King's Purſe 6000 *l.* a year, or very near, which the King had before. He laid new Additions of charge on the Cuſtoms, which came to 12000 *l.* So that on a bargain of giving

giving 1350 *l.* more then was reſerved on the former Leaſe, He was ſure, that when he made the bargain, of gaining 18 or 20000 *l.*

8. But I ſhall paſs from the Revenue of the Crown, to the Revenue of the Church, (which in the 8*th* place) he ſaith he hath been a great Husband for the Church, and truly hath brought in many Lands to the Church; but he hath brought them in by ways without Law, without Rules of Juſtice: He hath taken away Mens Inheritances. And here (*My Lords*) is an offering of Rapine, an offering of Injuſtice and Violence: And will God accept ſuch an Offering. Muſt the Revenues of the Church be raiſed that way. It is true, it was the more in the way of his own Preferment. He knew who ſat at the Helm here, the Arch-Biſhop of *Canterbury*; and ſuch ſervices might win more credit with him. It was not an Eye to God and Religion; but an Eye to his own Preferment. I ſhall ſpeak no more of that.

9. I come to the 9*th* Head; and that is the building of Churches. Many Churches have been built ſince his Government. Truly, *My Lords*, why he ſhould have any Credit or Honour, if other Men builded Churches, I know not: I am ſure we hear of no Churches he hath built himſelf: if he would have been careful to have ſet up good Preachers, that would have ſtirred up Devotion in Men, and made them deſirous of the knowledge of God, and by that means made more Churches, it had been ſomething; But I hear nothing of Spiritual Edification, nothing of the knowledge of God that by his means hath been diſperſed in that Kingdom. And certainly they that ſtrive not to build up Mens Souls in a Spiritual way of Edification, let them build all the material Churches that can be, they will do no good; God is not worſhipped with Walls, but he is worſhipped with Hearts.

10. He ſaith in the 10*th* place, That many Orthodox and Learned Preachers have been advanced by his means; and the Doctrine and Diſcipline of the Church of *England*, by his means Protected and Defended. *My Lords*, I ſhall give but two or three Patterns of the Clergy that he hath preferred. If you will take Doctor *Atherton*, he is not to be found now above Ground; for he was hanged for many foul and unſpeakable Offences.

Doctor *Bramhill* hath been preferred to a great Biſhoprick; but he is a Man that now ſtands charged with High Treaſon: He hath been but few years in *Ireland*, and yet hath laid out at leaſt 30000 *l.* in Purchaſes. I ſhall name but one Chaplain more, and that is one *Arthur Gwyn*, who about 1634. was an Under-Groom to the Earl of *Corke* in his Stable: In the year after, Dr. *Bramhill* preferred him to be a Clergy-man; and a Parſonage, and two Vicaridges Impropriate, were taken from my Lord of *Corke*, and given to this *Arthur Gwyn*. I ſhall add no more Patterns of his Clergy.

11. I go to the 11*th*, and that is concerning the Army: He hath many glorious Expreſſions of his Service concerning the Army; That they are 1000 Horſe and 2000 Foot: And that there hath been very few *Papiſts* Soldiers or Officers; and none preferred by himſelf. Truly, I think he ſays true, or within one of true in this; for there was but one preferred by himſelf, and therefore I ſhall not ſtand upon that.

But

But he ſays this Army was paid out of the Revenue of the Crown, which heretofore it was not wont to be. To that I have ſpoken before, and ſhewed, that many years before his time all the Charges of *Ireland* were born within *Ireland.*

He ſays, (and I ſpeak that as to the Army too) That neither the Arms nor Wages have been burdenſome to the People of *Ireland*; but their Lodgings and Billettings have not been eaſie, and not without diſcontent. Why *(My Lords)* in *Dublin* it ſelf, where they have a Charter that exempts them from Billetting of Soldiers, they have been fain to pay for Billetting of Soldiers. Nay, thoſe Soldiers that were Servants and Dwellers in his own houſes, and other places, muſt have their Billetting monies. And of this there hath been Petitions and Complaints; nay, it hath been ſpoken of in Parliament there; and yet he can tell you, that the marching and laying of Soldiers is without burthen and grievance to the People: That was the Eleventh.

12. I go to the *12th*, and that is the great increaſe of Trade: The increaſe of Shipping 100 to one. Truly *(My Lords)* in a time of Peace, and in a growing Kingdom as that was, being formerly unhusbanded, It is no wonder, that when Land increaſes in the Manurance, and People increaſe in Number, both Shipping and Trade increaſes: But it is the advantage of the time, not the advantage of his Government; for *(My Lords)* his Government hath been deſtructive to Trade: And that will manifeſtly appear by the multitude of Monopolies that he hath exerciſed in his own perſon. And that is all I ſhall ſpeak to the *12th.*

13. The *13th* is, That Juſtice hath been adminiſtred without bribery, without partiality, without Corruption; theſe are Glorious things. But there will as much fall upon him of Corruption and Injuſtice, as of any other Offence; And that *(My Lords)* will appear to you through the whole courſe of our Evidence: I ſhall not now ſpeak of the particulars. And that we may not content our ſelves with particular Witneſſes only, I ſhall humbly deſire that the *Remonſtrance* of the Parliament of *Ireland*, both of the Lords and of the Commons, may be read: And they will give a ſufficient Teſtimony of the quality of his Juſtice.

14. The *14th*, *(My Lords)* is this, That he hath been a Means to His Majeſty for a Parliament in *England.* It is true he was: And it is as true, that we count that as miſchievous a part of his deſign, as any thing elſe. Into what a miſerable *Dilemma (My Lords)* did he bring the Kingdom, that we muſt ſurrender the Liberties of the Kingdom in Parliament, or ſee them oppreſſed with Force and Violence out of Parliament. The particulars of this I ſhall leave for the inſtant; for there is an Article that concerns this.

I have now paſſed through all the material parts of the Apologetical Preamble.

He concludes with a deſire, That he may not be charged with Errors of his underſtanding or Judgment, being not bred up in the Law, or with weakneſs, to which humane Nature is ſubject. Truly, it would be far from us to charge him with any ſuch miſtakes; No *(My Lords)* we ſhall charge him with nothing but what the Law in every Man's breaſt condems, the Light of Nature, the Light of common Reaſon, the Rules of

of common Society: And that will appear in all the Articles which my Colleagues will offer to you.

My Lords, I have ſome few Witneſſes which I ſhall deſire may be heard to the points I have opened; and I ſhall in the firſt place deſire, that Sir *Pierce Crosby* may be heard concerning the breach of Priviledge in Parliament: Alſo Sir *John Clotworthy*, *Nich. Barnewell*, *Nich. Plunket*, and Sir *James Montgomery*. I have ſome Witneſſes to the point of Revenue, Sir *Robert Pye*, Sir *Edward Warder*, and Sir *Adam Loftus*.

Gentlemen, You who are of the Committee, I am commanded to let you know, That the Lords will allow you all the Teſtimonies you can produce to make good the Impeachment; but the Witneſſes which you do produce, muſt be Depoſed before their Lordſhips. Lord High Steward

Mr. *Pym* replied, *My Lords*, the Commons agree to it; and in the firſt place we ſhall call Sir *Pierce Crosby*, who was Sworn accordingly. Mr. *Pym*.

My Lords, I humbly crave leave whether I may not make my exception to any Witneſs. E. of *Strafford*.

Yes, you may. Lord High Steward.

We deſire to be heard upon that point of Exception, That if my Lord of *Strafford* will make any Exception why a Witneſs ſhould not be heard at all, it may be according to the Rules of Juſtice. Mr. *Pym*.

The Lord High Steward declaring, the Priſoner might except againſt the Perſon of the Witneſs, if he have juſt Cauſe, my Lord of *Strafford* proceeded in ſubſtance as followeth: Lord High Steward.

My Lords, I humbly conceive, that I have againſt this Gentleman Sir *Pierce Crosby*, juſt occaſion of Exception, (as not being a competent Witneſs) for that the ſaid *Pierce* hath been ſentenced in the *Star-Chamber*, for a very undue practiſe againſt me, tending to no leſs than the taking away of my Life, charging me, (and practiſing to prove it by Teſtimony of witneſs) that I had killed a Man in *Ireland*, whom I proteſt, I did never ſo much as touch. E. of *Strafford*.

That ever ſince (the ſaid *Pierce* having broke Priſon, and made an Eſcape out of the Fleet) he hath remained abroad, and never came hither till ſuch time as the Parliament ſate here; and now is returned to make Complaint in this buſineſs againſt me, or indeed againſt the Court of *Star-Chamber* rather: And ſtanding thus, whether the ſaid Sir *Pierce* ſhall be allowed a Witneſs againſt me, I humbly referr it to Your Lordſhips Judgments.

My Lords, We expected my Lord of *Strafford*, would have ſhown on what reaſon Sir *Pierce* was cenſured; for a Man Criminous in one kind, may be nevertheleſs fit to give Teſtimony in another kind. If it be a particular practice againſt my Lord of *Strafford*, when their Lordſhips have heard what that practice was, and have heard likewiſe the Witneſs, they will believe him according to the weight of the Teſtimony, compared with the fault, or whatſoever elſe is in the Sentence. But in the mean time, they conceive it is no Exception, but that the Witneſs ſhould be Mr. *Maynard*.

heard, This that is charged on my Lord of *Strafford*, being a Crime of High Treaſon, it concerns the Common-wealth, the King being party, and not the Witneſs that is produced.

And whereas it is informed that Sir *Pierce Crosby* brake Priſon: The Gentleman tell us it is not ſo; he paid the King's Fine, and ſo was diſcharged. But though he had, it will not take away his Teſtimony when he is preſent; which he ſaid, he ſpake only to give ſatisfaction to that aſperſion.

Lord High Steward. I muſt deſire their Lordſhips directions, Whether Sir *Pierce Crosby* be allowed, notwithſtanding my Lord of *Strafford*'s exceptions againſt him, and Mr. *Maynard*'s allegations why his Teſtimony ſhould be given in this Caſe, or no: And divers of their Lordſhips called to have the Houſe Adjourned to the Houſe above, that they might there Debate and Determine it.

Mr. *Pym*. Mr. *Maynard*. Mr. *Pym* did thereupon offer, that they will at preſent lay him aſide till their Lordſhips have had opportunity to conſider, and bring him again to morrow; whereunto Mr. *Maynard* added this further: We deſire rightly to expreſs our ſelves to Your Lordſhips, We will lay him aſide till Your Lordſhips have heard others, not that they wave him wholly: And we pray it may be ſo entred, The Lord Steward declaring it ſo to be.

Lord High Steward. It is ſo underſtood.

Mr. *Pym*, In the next place, we deſire that Sir *John Clotworthy* may be called, whom we produce to this point, That during the Parliament in *Ireland*, for ſpeaking againſt a Bill in the Commons Houſe, he was threatned by Sir *George Ratcliffe*, (whom we take to be bound up in one Cauſe with my Lord of *Strafford*, and to be moved by my Lord of *Strafford*'s Spirit) and that Parliaments are not Priviledges, when Parliament Liberties are not obſerved.

Sir *Jo. Clotworthy*, a Witneſs. Sir *John Clotworthy* was Sworn:

The Queſtion. *My Lords*, We deſire he may be asked, Whether for having delivered his Opinion againſt a Bill preferred to the Parliament in *Ireland* by the Earl of *Strafford*, about the 10*th* year of this King, he was not asked by Sir *George Ratcliffe*, concerning a Leaſe that he had; the queſtion intimating a Threat, that he ſhould ſuffer for ſpeaking ſo freely?

Sir *Jo Clotworthy*. To which he anſwered, *My Lords*, in the 10*th* year of the King, I ſerving in *Ireland* in Parliament, did Vote againſt a Bill; as ſoon as I had Voted againſt it, Sir *George Ratcliffe*, being one of the Tellers, on his counting the numbers, how many Yea's, and how many No's, he came to me, and ſaid thus, Have not you a Leaſe in ſuch a place? I told him yea; remember that, ſaith he: This is all I can remember. And this (he added) was in the Commons Houſe.

2. He being interrogated, Whether he knew any thing of Sir *Pierce Crosby*'s Commitment, or no?

He anſwered, I know it only by hear-ſay, he was a Member of the Houſe when I had the Honour to ſerve; I heard the expreſſion of Sir *George Ratcliffe* at that time: And the common voice was, that he was under reſtraint; but I ſaw him not.

3. Being

Being asked, Whether there was any other occaſion of theſe words but his ſaid Vote?

He anſwered, Truly *(My Lords)* I can apprehend none.

4. Being asked, Whether he heard Sir *George Ratcliffe* threaten Sir *Pierce Crosby* in Parliament?

He anſwered, I heard Sir *Pierce Crosby* ſpeaking againſt a Bill in Parliament; and as ſoon as he had ſate down from ſpeaking againſt the Bill, Sir *George Rateliffe* ſaid to him, That is not Privy-Councellor like, or to that purpoſe, I heard him.

To the point of Sir *Pierce Crosby*'s being ſequeſtred from the Council upon his ſpeaking in Parliament.

The Lord *Ranulagh* being Sworn, was interrogated, Whether about the 10*th*, year of the King, he knew Exception to be taken againſt Sir *Pierce Crosby*, for delivering his Opinion in Parliament; and what proceedings were againſt him thereupon? Lord *Ranulagh* a Witneſs.

He anſwered, *(My Lords)* to the beſt of my remembrance, Sir *Pierce Crosby* being a Privy-Councellor in *Ireland*, was charged at the Council-Board for Voting againſt a Bill that was tranſmitted by the Lord Deputy and Council; and hereupon the Opinion of the Board was asked; and by the advice of that Board Sir *Pierce Crosby* was ſequeſtred from the Council. This is as much as I can remember.

2. Being asked by whom he was ſequeſtred?

He anſwered, By the Deputy and the Council.

3. Being asked who began the Queſtion?

He anſwered, My Lord Deputy charged him.

My Lords, I humbly deſire that my Lord *Ranulagh* may be asked, Whether when things are handled at the Council-Table, the Deputy be not the Man that propounds them to the Council or no, not as a party complaining, but as belonging to the duty of his Place? And how he behaved himſelf in that buſineſs. E. of *Strafford*.

To which the Lord *Ranulagh* being interrogated,

Anſwered, It is the conſtant courſe for the Deputy to propoſe the things that be brought to the Board; and ſeldom doth any of the Council propound any thing; but the Propoſition comes from the Deputy. Lo. *Ranulagh*.

But being further asked on the Committees motion, Whether this of Sir *Pierce Crosby*'s came to the Board by motion of my Lord alone, or that any other moved him in it, or conveyed it to him?

He anſwered, I cannot charge my memory where it had beginning; but as I remember, my Lord Deputy *Wandesford* that died laſt, and Mr. *Wandsford*, and Sir *George Ratcliffe*, were movers of it; but whether it moved originally from them, or from my Lord himſelf, I know not, I rather believe it proceeded from my Lord Deputy, as being proper for him.

The Lord *Mountnorris* Sworn and interrogated, Whether he was preſent at Council-Table when Sir *Pierce Crosby* was ſequeſtred from Council-Table; and for what Reaſons he was ſequeſtred? L. *Mountnorris* a Witneſs.

He anſwers, I was then preſent at Board, and he was removed on Complaint made by Sir *George Ratcliffe* at the Board, touching his Voting of a

Bill in Parliament: And when he ſaid it was not ſpoken like a Councellor, he ſaid, he would anſwer it to him that made him a Councellor. That was the effect, as I can remember, of his Accuſation; and there were ſeveral others that teſtified the ſame words that Sir *George Ratcliffe* accuſed him of, and that was the reaſon he was ſequeſtred by moſt Voices at Council-Table, though he had many Votes with him.

And being further asked, what my Lord of *Strafford*'s Vote was:

He anſwered, it was for his Sequeſtration.

Nicholas Barnewell a Witneſs.

Mr. *Nicholas Barnewell* Sworn; Being asked, whether for his delivering his Opinion in Parliament, Sir *George Ratcliffe* did ask whether the ſaid Mr. *Barnewell*'s Houſe was capacious to receive 500 Men, to be laid upon him; intimating thereby, that he muſt look for Soldiers to be laid upon him for that reaſon:

He anſwered, There was a Debate in the Houſe concerning certain Boroughs ſequeſtred from the Houſe by reaſon of a Judgment in the Exchequer, which the Houſe conceived an Erronious Judgment, and were of Opinion that the old Boroughs ſhould be called in; I was of that Opinion, Sir *George Ratcliffe* was of another Opinion; and would have another queſtioned debated: And coming out of the Houſe, he asked me, Will not your Houſe hold Five hundred Men? I anſwered, You know what my Houſe will hold as well as my ſelf; and I ſmiling at it, he anſwered, But it is no laughing matter, you ſhall have 500 Men laid on you.

E. of *Strafford*

I deſire it may be asked, when this was ſpoken?

He anſwered, It was in *November* laſt; and that my Lord of *Strafford* was not then in the Kingdom.

Mr. *Pym*.

Mr. *Pym* obſerved, That the Spirit of my Lord of *Strafford* could move in Sir *George Ratcliffe*, whereſoever it was ſpoken; And Mr. *Barnewell* added, it was done in *November* then laſt.

In the next place, We ſhall ſhew the untruth of that part of my Lord of *Strafford*'s Preamble, that ſays, The Soldiers in *Ireland* are diſpoſed with ſo much contentment to the People, that they are no burden to them.

Mr. *Egor* a Witneſs.

Mr. *Egor* was called for a Witneſs, and Sworn.

Being Interrogated whether he knew of any Soldiers Billetted in *Dublin?* Whether they were not a Grievance? Whether that City hath not a ſpecial Charter of Exemption?

He anſwered, May it pleaſe Your Lordſhips, the City of *Dublin* doth bear the Charge of 40 Horſe, and pays to them 45 *l.* a month for Billetting, which is conceived they ſhould not bear, in regard they have a Charter that ſays, *Nullus Mareſchallus Capiat hoſpitium intra Civitatem*; and therefore they conceive it a heavy burden, and it is as much as a Subſidy: And another part of the City ſtanding in another County, pays 10 *l.* a month; ſo they pay in all 55 *l.* a month.

E. of *Strafford*

I humbly deſire he may be asked, Whether before my Lord of *Strafford*'s time, and as long as he can remember, The Lord Deputy's Foot-guard, and Horſe-Companies, were not Billetted in *Dublin?*

He anſwered, To the Foot-guard, when my Lord of *Faulkland* was there, they gave Lodging continually; but it was never drawn to matter

of

of money: And till now we had never Horſe upon us, except it were for a month, or ſo.

In the next place, We humbly deſire the Remonſtrance of the Nobility, and the Houſe of Commons in *Ireland*, might be read as Teſtimonies of my Lord of *Strafford*'s Juſtice. Mr. *Glyn.*

I deſire to know whether queſtions are to be asked of matters not contained in the Charge, as the Remonſtrance is not. E. of *Strafford*

My Lords, The Subverting of the Laws, and Corruption in Government and Juſtice, is generally laid in the Charge; and he hath anſwered, That he hath adminiſtred Juſtice with Integrity: And this we produce to ſhew, That the frontiſpiece of his Anſwer, is in that part untrue. Mr. *Glyn.*

To prove the Truth of the Copy of the Lords Remonſtrance now produced, the Lord *Digby* of *Ireland* was Sworn; and he on his Oath ſaid, That the Copy was delivered him at his coming over, by the Clerk of the Lords Houſe in *Ireland*, to be brought over hither by Order of the Lords there.

And the Lord *Baltinglaſſe* Depoſed, That he knew it to be the Clerk's hand; and they were both preſent at the Voting of it.

The ſame was read, bearing date *February* 22, 1640. The Proteſtation and Declaration of the Lords Spiritual and Temporal in Parliament Aſſembled; We deſire to apply it to diſprove part of the Preamble of my Lord of *Strafford*'s Anſwer. Remonſtrance.

I deſire my Lord *Digby* may be asked, whether he gave his Vote to this Proteſtation? E. of *Strafford.*

We produce it not as the Act of any particular Man, but of the Lords. Mr. *Glyn.*

Your Lordſhips may obſerve, that this is fallen out ſince my Impeachment of High Treaſon here: And that it is followed by Faction and Correſpondence, as in time might be made appear, if I could undertake it; and a ſtrong Conſpiracy againſt me. E. of *Strafford.*

My Lords, Theſe words are not to be ſuffered; Charging the Houſe of Commons with Faction, Correſpondency, and Conſpiracy, We deſire Your Lordſhips Juſtice in this. Mr. *Glyn.*

God forbid I ſhould think there was, or could be any thing in that Houſe, or any Member of it, but that which agrees with Truth and Juſtice, and Equity. I muſt profeſs to Your Lornſhips, I had no Reflection or Intention, either upon the Lords Houſe there, or upon the Honourable Houſe of Commons here; but upon certain Perſons that are not Members of the Houſe here, that have Correſpondency with them in *Ireland*, that are not Members of the Houſe there. E. of *Strafford.*

We muſt conſult with the Houſe of Commons concerning the Proſecution of this Exceptions to his worde; and in the mean time we will reſerve it to our ſelves; and ſo we ſhall proceed. Mr. *Glyn.*

We

We deſire the Remonſtrance made by the Houſe of Commons in *Ireland*, (being depoſed unto by *Patrick Gough*, That about *February* 25, it was delivered him ſealed up in a Box, with other things, before his face; being called on by the Houſe to be brought to the Committee for *Iriſh* affairs in *England*) may be read.

Remonſtrance. Which Remonſtrance was read accordingly.

Manager. Your Lordſhips may obſerve, That my Lord of *Strafford*'s glorious Declaration of his own Merits, was confuted by the whole Parliament; and that the whole ſum of the Charge, is confirmed by the Teſtimony of all *Ireland*.

To the point of *Revenue* of *Ireland*; for the contradicting of my Lord of *Strafford*'s Affirmation, That *Ireland* ſupporteth its own Charge.

Sir *Edward Warder* produced, and Sworn, was interrogated when the laſt Money was ſent out of this Kingdom for ſupport of His Majeſty's Affairs of *Ireland*?

Witneſs. He anſwered, The laſt Money ſent over for payment of the Army there, was in the Term of *Eaſter*, 1621, and it was 10000 *l.* in full of 20000 *l.* for one whole years charge, beginning the firſt of *April* 1619, and ending the laſt of *March* following; which was 17 *Jac.*

Being interrogated, whether ſince that time the State here hath been actually charged with the Affairs of *Ireland*.

He anſwered, nothing hath been iſſued out of the Receipt of His Majeſty's Exchequer for the maintenance of *Ireland* ſince this time, only ſuch Monies as have been lately iſſued for the Army, and what hath been iſſued to the Treaſurer of the Navy, and the Officers of it, for the maintaining of Ships on the Coaſt; but otherwiſe no Money hath been iſſued as a conſtant ſettled thing out of the Receipt of His Majeſty's Exchequer, for any thing ariſing ſince the laſt of *March*, 1620.

E. of *Strafford*. I deſire he may be asked, What was ſince iſſued for the Navy?

Manager. We admit that the Charge of the Navy continued divers years after, yet a few years before my Lord of *Strafford*'s Government it was taken off too.

Lord High Steward. The Manager did ſo open it, and Sir *Edward Warder* did in effect ſet it forth ſo: Therefore that queſtion was waved.

Sir *Robert Pye* produced, and Sworn to that point of Revenue; and being interrogated, to the ſame purpoſe.

Witneſs. Anſwered, No Money hath iſſued out of the Receipt, but as Sir *Edward Warder* delivered it; and I know of no other Money, but only for the Maritime parts, ſomething hath been paid to the Treaſurer of the Navy: And beſides the 50000 *l.* of late, I know not any.

Witneſs. The Lord *Mountnorris* was called upon; and being asked, Whether the Charge of 7000 *l.* a year for the Navy of *Ireland*, was not taken off a year before my Lord of *Strafford*'s Government?

He anſwered, I cannot ſay the ſum was 7000 *l.* But two of the Whelps employed

employed there before my Lord of *Strafford* came to the Government, were defrayed; whether wholly, or in part, I cannot tell, but they had good large ſums of Money, and were paid in the Kingdom.

I deſire my Lord *Monntnorris* may be asked, Whether when I came to the Government, the conſtant Charge did not exceed the conſtant Revevenue; and how much? — E. of *Strafford.*

It is true, the *Iriſh* gave Sixſcore thouſand pounds towards the Charge; ſo that the Supply came out of *Ireland*, though not out of the conſtant Revenue of *Ireland*: but it came out of this Kingdom. — Manager.

He further anſwered, the conſtant Revenue did not do it, There was a contribution by Loan from the Country, to ſupply it; but before my Lord of *Faulkland* went over, I heard my Lord of *Middleſex* tell him, They muſt look for no more Money, *England* had nouriſhed *Ireland* long enough, ſhe muſt now live upon her own Milk. — Witneſs.

The reaſon why Money did not go out, was becauſe 120000 *l.* was ſupplyed by a Contribution; notwithſtanding which, when he came to ſerve the King in that Kingdom, the Crown was indebted very near 100000 *l.* Sterling. — E. of *Strafford.*

He hath received 300000 *l.* for Subſidies. — Mr. *Pym.*

It will appear on Accompts, to be beſtowed faithfully aud juſtly every penny, for the King. — E. of *Srrafford.*

To the point of my Lord of *Strafford*'s taking of 24000 *l.* of the King's Money, and diſpoſing it for a year and a half, notwithſtanding His Majeſt's Wants, and the Neceſſities of the Army.

Sir *Adam Loftus* Vice-Treaſurer, produced and Sworn, was interrogated, Whether my Lord of *Strafford* had not 24000 *l.* out of the King's Revenue? and how long time? and when it was paid in?

He anſwered, My Lord of *Strafford* and Sir *George Ratcliffe*, had never a penny out of the Exchequer, but on ſuch Warrants as I durſt not deny them, for their due Entertainment, and other things importing His Majeſty's Service. But I muſt confeſs, that they being Partners in the Cuſtoms, ſome Monies were to be paid for the profits of the Cuſtoms which were in arrear, and Sir *George Ratcliffe* moved me to give diſcharges for it, and he would give me my Lord Lieutenant's Bond, and his own for paying of it upon demand; which I accepted of, and accordingly did give thoſe diſcharges. — Witneſs.

Whence obſerve, diſcharges are Money, for ſo much Money ſhould have been paid in, and if it be intercepted, the King wants His Money. — Mr. *Pym.*

Being asked what was the ſum; and how long it was kept?

He anſwered, The ſum, as I take it, was 19000 *l.* on one Bond, and 5000 *l.* on another; and as I take it, it was in the year 1638. — Witneſs.

Being asked again, How long it was kept?

He anſwered, It was paid lately; within theſe three months.

Whence obſerve, it was ſince the queſtioning of him in Parliament. The Parliament proves a good Officer for the King there. — Mr. *Pym.*

I ſhall

E. of *Strafford.* I ſhall reſerve my ſelf to give full ſatisfaction to this in its proper time, it being part of my Charge; But at preſent I deſire Sir *Adam Loftus* may be ask'd the queſtion, Whether when I came into that Kingdom, the conſtant Revenue fell not ſhort of the conſtant Charge, at leaſt 20000 *l.* a year.

Mr. *Pym.* We except againſt Interlocutory Diſcourſes; and having now concluded this part of the Charge, we deſire, that if my Lord of *Strafford* would ſay any thing in anſwer to what hath been now ſaid, he might ſay it preſently, elſe we ſhould be on great diſadvantages.

My Lords, I conceive the Propoſition to be fair; and it is that which I deſire, my Memory being weak, and not verſed in theſe kinds of Proceedings: I intended to have made it my humble ſuit for longer time to Anſwer to this Days Proceedings, but ſhall readily Anſwer every particular Article in order as they go along; and ſhall obey and obſerve the Order propoſed. But as to theſe things which I did not expect, as the Remonſtrances, and other Matters opened, being not in this particular Charge, I humbly crave Your Lordſhips leave and liberty, to recollect my ſelf, and then I will give them the beſt Anſwer I can. For to Anſwer them ſuddenly I confeſs I am not ſo well fitted, as I truſt I ſhall be.

And I deſire leave to ſay in the preſence of Almighty God, That I ſhall deſire to be delivered from the Afflictions that God Almighty hath laid on me for my ſins, no other way than as in the Intention, of my heart, and Endeavour of my mind, I have been moſt faithful and true to His Majeſty and the Common-wealth; and I well truſt and hope, that by the time all theſe things come to concluſion, and have been fully heard, I ſhall recover in great meaſure, the favour and good Opinion of the Honourable Houſe of Commons; in which Houſe, I have ſpent a great part of my time: And I doubt not but it is known to divers that ſit here, what my Carriage and Behaviour hath been there. And I deſire no more, (and I am ſure it will be granted, they are ſo juſt and good) but that they will reſerve towards me, an Opinion of Charity, that I give ſuch an Account, as may preſerve me to be the ſame in their Opinion, that I was formerly. I was never yet Impeached in my private Converſation, of untruth, and hope they will think of me charitably, till they have heard the whole buſineſs; and I doubt not but I ſhall take off, in great part, their hard Opinion, and procure to my ſelf, their Compaſſion and Favour; and that I ſhall go in peace and quietneſs to my Grave, leaving all publick Employments whatſoever. And I humbly beſeech the Houſe of Commons, to incline a gracious Opinion to me, ſo far forth, that I am the ſame Man in Opinion, that I was when I was one of them; and I doubt not but this, out of their Nobleneſs and Goodneſs, they will afford me.

But for theſe particulars, I humbly crave, that with Your Lordſhips good leave, I may have a little time with my ſelf to conſider them, becauſe they be new; and for the reſt, I ſhall obey Your Lordſhips Order, and give them thanks.

Mr. *Pym.* No Exception is taken, but to what is affirmed in his own Anſwer; and the Commons will think it another Man's Anſwer, and not his own, if he be not ready to make good the Truth of it. Theſe things ſhould not be new; for every Man ſhould be ready to maintain his own Aſſertions.

I am

I am (*My Lords*) in an unknown way, being not verſed in theſe things; if I might have had the Aſſiſtance of Council, it would have been a great eaſe to me: But it is not poſſible for me to recollect all which the Worthy Gentleman hath ſaid ſo materially, and with ſo much weight. Matters of Fact I could anſwer to, Article by Article; but to anſwer preſently ſo great and tedious a diſcourſe, ſo well delivered, and ſo weigthy, I profeſs I am not able; my Memory being not able to carry it. But if Your Lordſhips would pleaſe, out of Your Nobleneſs and Goodneſs, to give me Reſpite to recollect my ſelf to theſe things that be Generalities, I ſhould be able to give a good Account thereof, proteſting ſeriouſly, That I think every part of the Preamble to be very Juſt and True; and I hope, under favour, to make it appear ſo, when I ſhall ſhew thoſe things which have not yet been ſo fully informed and know, as I truſt they may be hereafter. E. of *Strafford*

My Lords, We humbly deſire, that ſince my Lord of *Strafford* is not ready to give Satisfaction to what hath been diſproved in his Anſwer, we may proceed to that which he is ready to give Anſwer and Satisfaction to; and that my Lord of *Strafford* might underſtand, That if he Anſwers not now what hath been ſaid concerning the Preamble, he muſt have no time to Anſwer hereafter. Mr. *Maynard.*

I Appeal to your Lordſhips; and I renew my Requeſt, That I may for theſe, have time to recollect my Thoughts till next day: If it may not be granted, I beſeech Your Lordſhips to bear with many of my Infirmities, being very great, both in Body and Mind; and to conſider, That my ſad Condition doth ſome way plead for a little Compaſſion and Favour, I being in a way I was never in before, and having not the great Parts that others have. Yet rather than I ſhould be thought to Abuſe Your Lordſhips with Untruths, I will do the beſt I can to maintain my Anſwer preſently; being confident, through the Bleſſing of Almighty God, that though the particulars thereof are delivered with a great deal of weakneſs and Diſadvantage, yet Your Lordſhips ſhall find them Truths, my own Heart (I proteſt before God) telling me ſo: And hope that God will give me Help and Aſſiſtance to make it appear ſo: And other than that I deſire not to be; for if I were the Man I am repreſented, I were not worthy to live: I confeſs, the Honourable Houſe of Commons have proceeded againſt me with all Reaſon and Juſtice that can be; being informed as they were, they could do no leſs; If they had done leſs, they had not performed their Truſt with that fulneſs they ſhould; and therefore I find no fault with them. But I beg leave to expreſs a Truth as well as God ſhall enable me; hoping it will appear, that all I have ſaid is true, as all is true to my knowledge. And I know it is in the Heart of every man that hears me, That I ſhould have time to clear a Truth; no man can deny it: And therefore I humbly pray, I may not be ſuddenly taken, proteſting ſeriouſly, I have ſaid nothing but what I knew, or verily believe to be true. E. of *Strafford*

We pray Your Lordſhips Reſolution in this point, before we proceed any further. Mr. *Maynard.*

Their Lordſhips thereupon Adjourned to the Upper-Houſe; and about half an hour after, returned.

Lord High Steward.

I am commanded to impart their Lordſhips Reſolution, that ſince the Commons do not preſs theſe things as matters of Crime, but rather upon the matter of Truth, they conceive my Lord of *Strafford* need not further time for theſe particulars. And that if his Lordſhip will make any Anſwer to theſe particulars, he is to do it now.

E. of *Straffords* Speech.

I ſhall never do other than readily obey whatſoever Your Lordſhips ſhould pleaſe to command me; my heart paying you Obedience; and ſo in truth ſhall every thing that proceeds from me. The queſtion (I obſerve) is matter of Truth, or not Truth, in the Preamble (as they call it) of this my Anſwer; and to that, with all the Humility and Modeſty in the World, I will apply my ſelf, as not conceiving it any way becoming me to ſpeak any thing of Sharpneſs in any kind, but with all Humility and Reverence to bear all theſe Afflictions, with acknowledgment unto Almighty God, and to lay them ſo to my heart, that they may provide for me in another World, where we are to expect the Conſumation of all Bleſſedneſs and Happineſs. And therefore to lay aſide all theſe Aggravations by words, wherewith I have been ſet forth to Your Lordſhips (only with this) that I truſt I ſhall make my ſelf appear a Perſon otherwiſe in my Diſpoſitions and Actions, than I have been rendred; and ſhortly and briefly, I ſhall fall upon the very points, as near as I can, that were mentioned by that Noble Gentleman; and if I ſhould forget any, I deſire to be remembred of them, that I may give the beſt Anſwer I can on a ſuddain; with this proteſtation, That if I had had time, I ſhould have given a far clearer Anſwer, than on the I ſhall ſudden be able tod o.

I will take them as the y lie in Order: And the firſt thing in this Anſwer is, That in *Ireland*, by my means, many good Laws were made for increaſe of the King's Revenue, and for the good of the Church and Common-wealth; and this I humbly conceive, was not denied directly, only it was inferr'd, That Laws were of no uſe where Will was put above Law.

That theſe Laws were made, the Acts of Parliament that are extent, and viſible things, do make appear; For (though I might expreſs it darkly, by reaſon I underſtood not matters of Law) the truth of it is, before ſuch time as I came there, the Statutes of Wills and Uſes, and Fraudulent Conveyances, were not of force in *Ireland*; by which there was a very great miſchief that fell many ways, both on the King, and eſpecially on the *Engliſh* Planters: For by want of theſe Statutes, no man knew when he had a good title; and old Entayles would be ſet on foot, and by that means the late Purchaſer avoided; by which means there was a great loſs and prejudice to the King in his Wards; which by theſe Laws are ſetled, and the Lrws of *Ireland* brought much nearer the Laws of *England* than before. And in this point I conceive I am not abſolutely gainſayed, but only conditionally, that is, that notwithſtanding this, I have ſet up another Govenrment, Arbitrary, and Tyrannical. To which, I ſhall not now trouble Your Lordſhips with an Anſwer, that being in the particulars of my Charge. And thus I think the firſt to be fairly and clearly Anſwered.

Then, that there were more Parliaments in the time of my Government, than in 50 years before. There were two in my time; and if I might call Witneſſes, it would appear, that there were not ſo many within that time before;

before; but being not material to my Defence or Condemnation, I will not trouble your Lordſhips with proof, unleſs you will require it; I having them here, that I think can make it good. And whereas in my Anſwer I deny that I ever had hand in any Project or Monopoly; and that I did prevent divers, that otherwiſe would have paſſed: I ſaid that, under favour, with all duty and confidence; I muſt ſtill affirm it, That I never had hand or ſhare in any manner of Monopoly or Project whatſoever, unleſs the Tobacco buſineſs were a Monopoly, which, under favour, I ſhall clear not to be; But that being part of my Charge, I think it impertinent now to give Anſwer unto it; but will ſatisfie Your Lordſhips in that behalf, in proper time and place: But more than that of Tobacco, I ſay abſolutely and directly, I never had my hand or ſhare in any Monopoly or Project; nay, I did, as much as I could, Oppoſe all of them, particulary the Monopoly of Iron-Pots; for which, I reſerve my ſelf to Anſwer as part of my Charge: And a new Book of Rates, whereby it was propoſed, That the Rates of the Kings Cuſtoms might be increaſed. And this I did Oppoſe and Diſavow, albeit I was a ſharer in the Farm, and conſequently ſhould have had the Benefit and Advantage of it for my Proportion; and by the Kings gracious Goodneſs (when His Majeſty came to be more fully and clearly informed of it) it was ſtopped and never went on: And this I will make appear in that point of the Articles that concern the Cuſtoms.

The Fourth is, That I have not had any greater Power, or larger Commiſſion, than my Predeceſſors in that Government have had; which I conceive, under favour, is not controverted, but granted, and therefore ſtands good to me; or if it were controverted, I am able to make it appear, that I have brought in nothing more than was formerly accuſtomed in the point of the Deputies-Commiſſion.

The next thing in my Anſwer is, That the Revenue of *Ireland* was never able to Support it ſelf before my coming thither; and that I ſay ſtill, with all Humility and Duty, is moſt true: And I truſt to make it apparently true preſently, if Your Lordſhips will give me leave to call for, and examine my Witneſſes. It being the Proofs Your Lordſhips will look to, and not to what was only alleged by that Worthy Gentleman: And further than Your Lordſhips ſhall find proved, I deſire not to be believed.

The proof offered againſt me, is by Sir *Edward Warder*, and Sir *Robert Pye*, who teſtified, That from the year 1621, nothing went out of the Kings Exchequer to ſupply the *Iriſh* Affairs, ſaving only for the Maritime occaſions. And this I believe to be true; for they be Gentlemen of Credit that ſpeak it: and I will believe them on their Words, much more on their Oathes.

But (under favour) there was for eight years together before my coming, a Contribution of 20000 *l.* a year paid by the Country; which was no part of the Kings Revenue, nor as I conceive, ever came into Accompt, nor was paid into the Exchequer, as will appear on the Fifteenth Article; but was a Gift of the Country, and applied to the King's Occaſions: And that determined, the Revenue fell ſhort 20000 *l.* of the Charge.

Beſides, when I came to *Ireland*, the Crown was extreamly indepted, above (as I think, (not to ſtand on particular ſums and pence) 100000 *l.* Sterling. And by the Gentleman's own ſaying, when I came out of *Ireland*,

I left 100000 *l.* in the King's Coffers: And if any ask where the Accompt for the Subſidies is, There is 100000 *l.* Debt paid, 100000 *l.* left in the King's Coffers; (For it appears by Sir *Adam Loftus*, that there was 100000 *l.* in the Exchequer when I came from thence) There was 15000 *l.* employed for buying Land, that yields the King 2000 *l.* a year. And ſo much of my Lord of *Ormond*, as yields 2500 *l.* a year: So that the Accompts will ſhew the beſtowing of the Subſidies, with as much Advantage as might be, for the King's Service. That the Revenue was ſhort, I could make appear clearly. The occaſion that no Money came out of the Exchequer, was accidental, by a Contribution of the Country, no Revenue of the Kings. And if that had not been ſupplied, there had been no poſſibility of defraying the Ordinary Charges of the Crown out of the Revenue; and that is the point wherein I differ from the Gentleman, his meaning being, That the ordinary Revenue of the Kingdom could not bear the ordinary Charge of the Kingdom. And I deſire that Sir *Adam Loftus* and Sir *Robert Dillom*, may be examined upon ſuch queſtions as ſhall be propounded in this point.

Lord High Steward. Your Lordſhip may examine them, but not upon Oath.

E. of *Strafford* I will not diſpleaſe, but perfectly obey in every thing.

Mr. *Pym*. It will not be denied but the Revenue is increaſed by ſuch means as my Lord of *Strafford* hath increaſed it by; yet it was not the natural Revenue, but the additional part, that came in by the Bounty of the Country, that ſupported the Charge many years before my Lord of *Strafford* came: So that if it be ſaid *Ireland* ſupported not it ſelf before he came thither, in the general ſenſe it is untrue; if it be ſaid in a ſpecial ſenſe, that the King's proper Revenue did not ſupport it, that his Lordſhip ſays is true.

E. of *Strafford*. Whence I infer, that it was not much material to inſiſt on this, for I meant it ſo; and it is plain and clear, that the King's Revenue there was not able to bear the Charge of that Kingdom, by very near 23000 *l.* or 24000 *l.* a year: And it is now able to bear its own Charges, and yet there is an increaſe of Charge by 600 Horſe; by which the Army is ſtronger than it was.

And whereas it is ſaid, I was ſhort in the Shipping; I affirm, that under favour I was not. It is true, that in the time of the late Juſtices, my Lord of *Corke*, and my Lord *Loftus*, the laſt years Charge of the Shipping was paid forth of *Ireland*: But it is as true, that when the Kingdom underwent the Charge, they leſſened the Charge of the King's Army, by ſtriking 500 off from the Army; and transferred the Charge of their pay, to the eaſing of the King's Revenue on the Navy. But that Charge being now increaſed again, and brought to the former certainty, I conceive I might truly ſay, there was in my time an eaſe to the Crown of *England*, (all things conſidered) which formerly it had not: It being not with the prejudice of the King's Service elſewhere, or leſſening the King's ſtanding Army, which in all times hath been the ſtrongeſt ſupport of the King's Juſtice, and Miniſters there; and which it deeply concerns the Crown of *England*, to keep in ſuch a Condition, that they may be reſponſible to the King for the Services he ſhall Command: So that though the Shipping Charge was paid the laſt year, yet ſo paid, that the King's Army was weakned 500 Foot;

Foot; where as now it is paid, and the King's Army raiſed to a certainty again; and a Change is made to the better; for inſtead of 500 Foot, there is 600 Horſe. And that I ſay, my Lord of *Corke* remembers very well, there being Letters of his, That Sir *Pierce Crosby* his Regiment, ſhould be put off, and the money for maintenence thereof, ſhould go to defray the Charge of the King's Ships, for guard of the Coaſt.

And yet the Charge is much more now than it was; for the Charge was then only two Whelpes, as my Lord *Mountnoris* ſaid: And now there be three Ships, The *Swallow*, a Ship of the Third Rank, and two leſſer Veſſels; ſo that I conceive my Anſwer, in my ſenſe, was true.

For the matter of having money out of the Exchequer, I conceive my Anſwer to contain no matter of Untruth; for I had out of the Exchequer only 15000 *l.* and for that the King will be anſwered 2000 *l.* a year good Fee-farm Rint, in lieu of it; which he thought was no ill bargian. It is true, (I ſay) the money ſpoken of by Sir *Adam Loftus*, was borrowed on my own, and Sir *George Ratcliffes* Bond, to be paid upon ſight. At that time (I praiſe God) I had Credit for 20000 *l.* and at this time (I thank God for that too) I have not Credit for 20 *d.* God's Will be done, I obey it. But this money is honeſtly and juſtly paid; Where is the Crime then? might not I borrow of a Gentleman that would truſt me with money, but it muſt be an Offence? It is true, it was of the King's money; but the King had no uſe for it at that time. Had not I made uſe of it, it muſt otherwiſe have lain in the Exchequer, and yielded no profit; and beſides, I borrowed it of one that was Accoumptabe for it.

But ſince I am put to it, I will ſhew that which will clear it from being a Crime indeed; which according to the Duty I owe unto his Majeſty, my Maſter, his Command hitherto have I kept private to my ſelf: And that is the King's Warrant, being all of His own Hand writing.

Sir *Adam Loftus*, being then Vice-Treaſurer, and now demanded the queſtion, Whether that Warrant was produced to him at the borrowing of the money, confeſſed, that my Lord of *Strafford* never told him of the Warrant. Witneſs.

The Warrant was read, containing a Licence to make uſe of 40000 *l.* of His Majeſty's Treaſure, now in the hands of His Maieſty's Vice-Treaſurer, for three years; Provided, that for Security, there be always left in the hands of the Comptrollers, a Stock of *Tobacco*, amounting to 40000 *l.* at the leaſt; with a direction to conceal this particular favour to him, that it might not be brought into precedent. King's Warrant read.

There was accordingly ſo much Tobacco left. But, by what Law I know not, The Magazines are ſeized on by Order from the Commons Houſe of Parliamnet, my Goods poſſeſſed, and given over to others, to ſell at their own prices; my People impriſoned, as if they had been Traytors Goods, and as if an inquiſition had been found upon me as a Traytor. And this is my Misfortune, to be very hardly dealt withall by the Commons Houſe there, to ſay no more. E. of *Strafford*.

And whereas by the King's Goodneſs I had liberty to take 40000 *l.* I took but 24000 *l.* And where I had liberty to take it for three years, (which expires not till *Michaelmas* next) I paid it in long before the time.

And

And by this one particular I hope it will appear to Your Lordſhips, and the Gentleman of the Houſe of Commons, how Noble it will be to believe Charitably of me, till they hear all can be ſaid; for I truſt, in the whole courſe of this Trial, to appear an honeſt man.

And whereas I ſaid, I never had but 15000 *l.* out of the Exchequer, and yet had 24000 *l.* borrowed as aforeſaid. The King Commanded me I ſhould not take notice of His gracious Favour; and therefore I conceive, that in Duty to my Maſter I ought not to have taken notice of it, otherwiſe my Anſwer ſhould have clearly and plainly expreſt it: I never having Diſobeyed His Majeſty, nor, by the Grace of God, never will.

For the 7000 *l.* for the Guard of the *Iriſh* Coaſt, that was mentioned already; and I ſhall not need to Anſwer it further.

To the point of reſtoring the Poſſeſſions of the Church in a great meaſure; I ſay, there was not only a Reſtitution, but a Preſervation by an Act of Parliament, for preſerving the Poſſeſſions of the Church from being miſ-uſed by the preſent Incumbent, to the prejudice of the Succeſſors: which Act, I wiſh were in *England*: But that I conceive not to be Controverted, but granted me.

But it is ſaid, The Poſſeſſions of the Church were reſtored in an Illegal way, to pleaſe my Lord of *Canterbury*: To which I Anſwer, The Gentleman indeed ſpake it, but there is no proof of it, neither hath he offered any proof; and till it be proved, I conceive it not fit to trouble Your Lordſhips with Anſwering it: I have done nothing in Church or Common-wealth, but Juſtly and Uprightly.

Albeit I conceive it a hard caſe, that having the Honour to be the Kings Deputy ſitting in Council, where there be Twenty who Voted as well as my ſelf, That I ſhould be noted to Anſwer for them all, though I did conſtantly ſubmit my ſelf to the Major part.

And as to my Lord of *Canterbury*, I beſeech Your Lordſhips to think, That what I have done for the Church of *Ireland*, was out of a faithful Conſcience to God Almighty, out of a deſire to increaſe the Religion I Profeſs, and which I will witneſs with my Blood, by the Bleſſing of Almighty God, if there ſhould be occaſion. And when I have done it with reſpect to that Piety of His Gracious Majeſty, which I would faithfully pay Him. I deſire it may not be put upon me, as done in an reſpect only to my Lord of *Canterbury*, where no ſuch thing is proved: No, I did it out of Conſcience, my Duty to God, to the King, and to the People, that they may be inſtructed in the way to Eternal Life. And I beſeech Your Lordſhips to believe, I have a Heart a little greater than to do any ſuch thing to pleaſe any man living, with Modeſty be it ſpoken.

For the Building of Churches, I confeſs, I built not any; and in my Anſwer I ſaid no more, but that Churches were built; which the Worthy Gentleman acknowledged in ſome part. I confeſs they were not Built by me, or at my particular Charge; nor do I ſay otherwiſe in my Anſwer: And it had been a vain thing to have ſaid it, though I had done it my ſelf.

But it is ſaid, the Anſwer is not right in ſaying there be divers Worthy Church-men perferred; and three are inſtanced in, Biſhop *Atherton*, the

the Biſhop of *D.* and one *Gwyn*: To this I beſeech Your Lordſhips, that I may be bold to let the Gentlemen know, That Biſhopricks are not in the gift of the Deputy, but of the King; and that he is not Reſponſible for what the King doth.

But not deſiring to deny any thing that is true, I confeſs, I think Biſhop *Atherton* was unknown to His Majeſty; and that I my ſelf recommended him to the Biſhoprick; and at that time I thought the Biſhop a perſon fit for that Charge: But ſuppoſe he had a ſecret fault of his own, (God knows it was unknown to me) may not a man be deceived in his Judgement of a man, but this ſhall be turned againſt him? It is a very eaſie thing for a man to cover his faults from the eye of the world; I thought him not a vicious man, he proved ſo, and he had his merit, he ſuffered for it: And unleſs I had the Inſpection of Almighty God, I ſuppoſe, this cannot be laid to my Charge; if any private End or Reſpect ſhould appear in the doing of it, I deſire no more of Your Lordſhips Favour; and I profeſs, I had rather be out of the World, than not to have the Favour of Your Lordſhips, and the Honourable Houſe of Commons; of whom I deſire, that they would hear me with that Equity that they hear every thing.

For the Biſhop of *D.* all that is mentioned againſt him is, That he is Impeached of High Treaſon by the Commons Houſe of Parliament in *Ireland*: And how the Biſhop will acquit himſelf I know not; but for that the Biſhop muſt Anſwer for himſelf, not I.

This Biſhop hath lived in my Houſe a long time, as my Chaplain; and I humbly recommended him to that Biſhoprick, taking him (and I hope he will ſo approve himſelf) to be a very Learned man, and that I think no body will deny: Certainly he hath the Elements to make him a very Worthy Church-man as moſt I know.

For that *Gwyn*, I profeſs I never heard of him before, nor do I know him; But recollecting my thoughts, I think he was recommended to me by my Lord of *D.* for in matters of the Church I did uſe that Gentleman; and if I were to begin the World again, I would uſe him ſtill, holding him a very honeſt Worthy man: And I think there were ſome Rectory or Impropriation that the Earl of *Corke* had poſſeſſion of, which was reſtored to the Church; and it was of ſo ſmall and trivial a value, that they knew not who to get to ſerve the Cure; and on that occaſion this man was recommended to it: And I think, that if it ſhall come to be examined, Thirty pounds a year will go far in his preferment. And if ſuch a thing ſhould happen, and miſcarry in his hands, it is no ſuch hainous Crime as is objected.

But I deſire leave to ſhew what I have done in this kind inſtead of this Mr. *Gwyn*; and Your Lordſhips may ſee a Liſt of thoſe I have preferred to the Church of *Ireland*, and perhaps they may be known to ſome of Your Lordſhips, and to many Gentlemen of the Houſe of Commons. And firſt I ſay, I preferred Mr. *Gray*, and have done for him according to the means I had by the Favour and Goodneſs of the King; perhaps he hath that which is worth 3. or 4, or 500 *l.* a year by my Gift. And this Mr. *Gray* (if I be not miſtaken) was ſometimes Chaplain to a Noble Perſon that ſits on the Earls bench; and if it were material further to inquire of him, I might give ſatisfaction what he is. I likewiſe brought into that Kingdom Mr. *Tilſon*, now Biſhop of *Elphin*, and ſometimes Fellow of *Univerſity* Colledge of *Oxford*, a moſt Worthy, Honeſt, Religious Perſon he is; and

thoſe

thoſe that know him, I am ſure will give him that Teſtimony. I likewiſe preferred Dr. *Margetſon*, Dean of Chriſt Church; he was of *Cambridge*, and a Worthy man. Mr. *Forward*, Dean of *Drummore*, an *Oxford* man; who if he were known, would appear worthy of that Preferment. Mr. Dean *Creſſy* an *Oxford* man. Mr. *Roade*, Dean of *Derry*, a *Cambridge* man, of *Sydney* Colledge. Dr. *Wentworth*, Dean of *Armagh*, of *Oxford*. Dr. *Price*, Dean of *Conaught*, of Chriſt Church in *Oxford*. Mr. *Thorpe*, a *Cambridge* man. I preferred likewiſe one Mr. *Parry*, whom I found in *Ireland*; but all the reſt I brought, and ſent for out of *England*: Nay, I ſent for them, and did thoſe things for them before they did ask the Queſtion, or knew of it; That being a means, under God's Bleſſing, to conform that Kingdom to the Church of *England*. And theſe, and far greater, numbers than theſe, to my beſt Judgment and Underſtanding, I made uſe of as Inſtruments to God's Glory, His true Service, and the reducing of the People to the Profeſſion of the ſame Religion that's here in *England*; and for no other end. But concerning my Carriage of the Truſt repoſed in me by the King, touching theſe Eccleſiaſtical Preferments, I deſire no other Teſtimony or Witneſs for me, but the Lord Primate of *Ireland*, who is ſick, and cannot come hither: To whom I will Appeal, whether I have not in my preferring to the Church Preferments, carried my ſelf with all clearneſs and care I could poſſibly.

To the point of increaſing of Proteſtants; if your Lordſhips pleaſe to hear any thing in that kind, I ſhall call my Lord *Dillon*, and Sir *Adam Loftus*, who if they ſhould be asked, Whether there be more Proteſtants in *Dublin* now than when I firſt came thither? I doubt not but they would give an acconnt of a greater number.

Mr. *Pym*. We Charge him not upon this point; ſo it was ſet aſide.

E. of *Strafford*. My preferring of none but Proteſtant Officers, if I miſtook not, the Noble Gentleman did acknowledge.

Billetting of Soldiers in *Dublin*. To the diſpoſing of the Army without Grievance to the Subject; I leave that, (which was ſpoken with ſo much Advantage and Ability above any thing that from ſuch a poor man as my ſelf, could be expected) and proceed to that which was proved; obſerving, That one only Teſtimony was produced, (*viz.*) Alderman *I.* who ſaid, they have a ſpecial Charter at *Dublin* to exempt them from Billetting of Soldiers. But whether it be ſo or no, it hath ever been denyed by the Deputies: And by his own Confeſſion, the Foot-Companies of my Lord of *Faulkland* were Billetted in *Dublin*. And whereas it was ſaid they had Lodgings, not Money, That was altered upon a Compoſition with the Soldiers, who can expect only Lodging; but if for the Eaſe of the Town they will allow the Soldier Money, and leave him to provide for himſelf, it is all one.

For the Horſe-Troops, My own is, and ever ſince I was there, hath been Billetted in *Dublin*. And it is in the Power of the Deputy to Garriſon part of the King's Army where he pleaſes, and without controverſie, hath been ſo at all times.

And I deſire that my Lord *Ranulagh* may be asked, Whether the Soldiers of the Company he hath, be not Billetted in *Athlone*, at leaſt ſome part of it. It is true, my Lord of *Faulkland*'s Troop was not Billetted

in

in *Dublin*; but they were in the Counties round about, which was more chargeable.

And beſides, here is produced but one ſingle Witneſs; and I hope my own Anſwer may ſtand equal, and in as much Credit, as a ſingle Teſtimony, that on the matter, confeſſes the thing in a great part.

Increaſe of Shipping.

For the increaſe of Shipping, the Gentleman queſtion'd it not; and really there is now 100 Tun for one, that was there before my coming. And if I had time to ſend into *Ireland* for the Certificates of the Officer of the Ports (the Surveyor, I think) who views the Ports once a year, it ſhould appear to Your Lordſhips, that I have not abuſed you, nor the Honourable Gentlemen that hear me. And whether that be an Argument that the Trade and Wealth of the Kingdom is improved, (I appeal to all that hear me) when the Shipping doth ſo much increaſe: And the Cuſtoms, which were not above 13000 *l.* a year, are come to 40000 *l.* and that on the ſame Book of Rates.

Jurors Sentence in the *Star-Chamber*.

Concerning the Sentencing of Jurors, and the queſtioning of them in the *Star-Chamber*. It is true, divers of their Sentences were paſt: And to thoſe Sentences I refer my ſelf, till ſomething be proved againſt the Truth and Juſtice of them. And I think it will ſtand with Your Lordſhips Goodneſs, to judge the beſt of the Court of Caſtle-Chamber, wherein the Deputy hath but one Voice, they being the King's Miniſters, and ſtanding upon their Oathes to do their Duties: But I think in my Conſcience, there was the greateſt reaſon in the World to ſentence thoſe Perſons, And when it comes to be examined, it will prove ſo. And unleſs a ſtrict hand be in that kind held upon the Natives, the Prieſts ſhall carry them againſt all things that can be. For either they do not, or will not, underſtand their Evidence: ſo that it begets one of the moſt crying ſins in *Ireland*. And if ſome Examples have been made, they are upon ſtrict grounds and reaſons of State. For if Jurors going directly and manifeſtly contrary to their Evidence, be not puniſhed, that high and ancient Trial by Jury, will fall. And it is not ordinary in *England* to have Juries Sentenced for not finding according to the Evidence? But if any one hath not been Juſt, upon inſtancing of the particulars, I will Anſwer for his Vote as well as I can: For it muſt ſtand or fall according to the Merit of the Cauſe.

But one thing which I obſerve the Gentleman to ſay, is very Conſiderable; for he tells what was ſpent there this laſt year. This I have little to Anſwer for: For when I came out of *Ireland*, there was 100000 *l.* in the Exchequer; and how it hath been iſſued, I know not, but it hath not been done by my Warrant or Direction; yet I doubt not but it will appear, when examined, that it hath been faithfully and juſtly diſpoſed. But I am not to Anſwer for it, only I can ſay, That when I came out of that Kingdom, the Kingdom was ſo far from being 60000 *l.* in Debt, (as ſome ſuch thiug was ſpoken) that there was 100000 *l.* in the King's Coffers.

And for the 50000 *l.* received by me in *England*, Mr. Vice-Treaſurer in *Ireland*, is Accomptable for it, though Mr. Vice-Treaſurer never touched the Money, and my ſelf as little. And Mr. Vice-Treaſurer diſcharges himſelf of it by Warrants iſſued from me, and charged it upon other Accomptants; who when they come to Account, I doubt not but a good Account will be given. Though (under favour of the Gentleman) of

the 50000 *l.* 14000 *l.* is yet unpaid, only there is an Aſſignment. But it lies on him and his Credit for diſcharge of the King's Service: And it muſt lie on him, or on ſome other perſon, if himſelf have nothing left him.

And whereas it is ſaid, the money I had as borrowed, was taken out when the King's Army was in want, I deſire Your Lordſhips to obſerve, It was two years ago when I had this Money; and then there was 100000 *l.* in Surpluſage. And though the King gave me Liberty, of His Goodneſs, to uſe it three years, it was not wanting to the Army when it ſtood in need of it.

The next thing urged, was my Cozenage in the Cuſtom-houſe; and that I had there Cozened the King notably, 5 or 6000 *l.* a year deep.

To Anſwer this, I reſerve my ſelf till I come to the particular Article; but deſire leave with all Modeſty to ſay, That it ſhall appear I have not Cozened, nor deceitfully abuſed His Majeſty for a Farthing Token, neither in that, nor in any thing elſe. And that there is no other Allowance, nor Defalcation by the Grant wherein I am Intereſſed for 15600 *l.* a year, and 8000 *l.* Fine, then was allowed to the former Farmers, that had it at the Rent of 13000 *l.* a year. And that I have made the King a much more profitable bargain than he had, or could have without it.

The next was for the Revenues of the Church, That they were got without Rules of Juſtice; And were an Offering of Rapine. And that I had an Eye to my own Preferment, in the Perſon of my Lord of *Canterbury*: To that I have already Anſwered.

And thus having run over all the Preamble, I humbly begg leave to make ſome Obſervations upon the Teſtimonies produced, (*viz.*) That the Examinations of Sir *John Clotworthy*, and my Lord *Ranulagh*, I conceive, do not concern me. Mr. *Barnewells* was for things ſpoken when I was out of the Kingdom; and were concerning Sir *George Ratcliff*, and not me.

For the Remonſtrances ſhewed, wherein they diſclaim the Preamble to the Act for Four Subſidies, I beſeech Your Lordſhips to conſider, how unlikely it is that I ſhould do any thing in that kind fraudulently or ſurreptitiouſly: For by the Cuſtom of that Kingdom, the Laws muſt be tranſmitted hither under the Hand of the Deputy and Council, and ſo paſs the Seal, and be returned to *Ireland*; when that Law was tranſmitted, I was here in *England*, as I take it: And abſolutely and directly, I proteſt I never knew any thing in the World of that Preamble, never ſaw it, nor heard of it, I think, till I ſaw it in the Copy of the Remonſtrance; I never heard it was excepted againſt, it having paſs'd the Vote, and three times reading, in both Houſes: And I would have conſented to have it ſtruck out, as in truth I will now, being far from any thing of vanity, and not thinking my ſelf better or worſe by being put in or out: And if it were charged upon me as a Crime, or were material for me to prove it, I think I could by Witneſs in Town prove, That it was the general Vote of the Commons Houſe, and paſſed with as much Applauſe and Chearfulneſs, as any thing. And, that if my Lord *Dillon*, and Sir *Adam Loftus*, and ſome other of the *Iriſh* Commiſſioners, where examined upon Oath, I believe they would

would Swear they never heard any Exceptions againſt it, till the time I was Impeached with High Treaſon.

For the Particular concerning Sir *Pierce Crosby*, it concerned not me; but the reaſon of his being put from the Board was this: All Laws muſt firſt be tranſmitted from the Deputy and Council; the Bill againſt which he Voted was tranſmitted, Sir *Pierce Crosby* was there, and ſet his hand to the tranſmiſſion; and becauſe he did not except againſt it then, being a Member of the Board, but did except againſt it afterwards, it was thought fit he ſhould be Sequeſtred (as I remember) till His Majeſty's Pleaſure ſhould be known; But Committed he was not: And it was done by the Vote of the whole Board, but no way to infringe the Liberty of the Houſe; and ſo in Obedience to Your Lordſhips, as near as I could, with a great deal of Weakneſs and Infirmity, I have ſaid as much as I can for the preſent recollect, towards the making good the Truth of my Preamble.

And I conclude with this humble ſuit, there being ſome Exception took at ſome Words that fell from me, Many mens Tongues and Mouths may offend, where their Hearts do not: And that in truth I may ſay, my Heart did not offend againſt that Reverence and Duty I ſhall always pay, on all occaſions, to the Honourable Houſe of Commons, and every Member of it; but to others, that are neither Members of this Houſe, nor of the Houſe in *Ireland*, I meant what I ſaid: And I do beſeech the Gentlemen of the Houſe of Commons to accept my Acknowledgment of this truth: And that my Words may not be any ways raiſed againſt me as a Cauſe of their thinking worſe of me; or that I ſhould be peccant or offending, in having other thoughts of the Members and Proceedings of the Houſe, than with all Submiſſion, and all belief of the Equity of it.

To which Defence, one of the Managers appointed for this days Service, briefly replyed, in Subſtance as followeth.

Mr. *Pym.* What I have ſaid in Anſwer of the Preamble, was not by way of Charge, but only for diſproof of that whereby my Lord of *Strafford* would take away, or nullifie the Charge. So that if the Charge remains in force, the Services performed by him, are not effectual to mittigate it.

That what we have propoſed ſtill ſtands unavoided, as we conceive notwithſtanding any thing my Lord of *Strafford* hath ſaid.

That as concerning Sir *Pierce Crosby* his agreeing to the Tranſmiſſion, if that be true: That there is a preparative part of the Law, and there Sir *Pierce Crosby* might ſpeak as a Councellor; But there is a Legeſlative part of the Law, and that is done in Parliament; and theſe being diſtinct, if Sir *Pierce Cosby* did do any thing at Council-Table, it deprived him not of his Liberty to ſpeak in Parliament. But we are informed, he gave his denial to conſent to the Tranſmiſſion.

And if my Lord of *Strafford* were not guilty in his own Perſon of breach of Priviledge; yet if under his Government, Priveledge of Parliament be broken, it is no matter of Merit to ſay, he procured Parliaments.

It is no Anſwer to ſay, things are not proved, when any thing we urged, is contained under an Article; for then he refers the proof when he comes to the Article; as many things concerning the Lands of the Clergy, will be made good in the proofs of the proper Article.

That he hath preferred many Divines; that is no part of his Merit, nor takes away his fault, though it be true.

That for the Value of his living, we never heard of it till on this occaſion; but be it ſmall or great, it is nothing to Juſtifie my Lord of *Strafford*, being offered to this purpoſe; That though his Lordſhip were careful of the Lands of the Miniſters, He was not careful of the Miniſters themſelves, in ſuffering a Groom to execute that high Function; Miniſters being not to be choſen according to the Quality of the Living, but according to the Quality of the Function.

That for the matter of Monopolies, if his Lordſhip do ſtop any, he may ſtop them for ſiniſter Reaſons and Reſpects; and however, there is no Compenſation, doing his Duty in own thing, not ſatisfying for Neglect in another.

And then concluded, That what we have not now replied unto, ſhall be made good in the Charge; and ought not in their Lordſhips Opinion, make my Lord of *Strafford* more plauſible; for the Charge ſhall be made good againſt him in the truth of the Fact, and the Aggravation of it.

Hereupon the Court was Adjourned, and the Committee directed to proceed to the Proofs conducing to the particular Charge, the next Morning.

The Third day.

Wedneſday, March 24. 1640.

Gentlemen,

Lord High Steward. YOU who are of the Committee to manage the Evidence againſt the Earl of *Strafford*, I am to acquaint you, Their Lordſhips have conſidered of that point of Sir *Pierce Crosby*, his being examined as a Witneſs, and my Lord of *Strafford*'s Exceptions; and have reſolved that he ſhall be Examined; and that the Validity of his Teſtimony ſhall be left unto their Lordſhips Judgments.

Mr. *Maynard*, Manager. Your Lordſhips have with great Patience attended the Charge that hath been read, and the anſwer, and the Exceptions taken to the Preamble, which my Lord of *Strafford* to ingratiate himſelf, did make to the main of his Defence.

My Lords, I ſhall repeat little of that that hath been ſaid, only pardon me if I ſay this to Your Lordſhips, That wherein my Lord of *Strafford* anſwered to very many particulars, yet to that one Main he anſwered not, which was principally objected againſt him; which I therefore ſpeak to put him in mind of it, that if he can he may Anſwer: And that is, Your Lordſhips were pleaſed to hear the Complaint and Proteſtation of the whole Kingom of *Ireland* read before you. The principal of their Aim ſeems to be, to take off the Extolling of my Lord of *Strafford*, that himſelf or his Agents, had put upon him in a Bill of Subſidies; wherein indeed the

Praiſe

Praiſe and Honour due to his Majeſty, was much Attributed to my Lord of *Strafford*, which grieved the Parliament, who would take it off, and my Lord of *Strafford* is now willing to lay it down; and he doth well to do ſo when he can keep it no longer, when thoſe from whom he took it by fraud or force, would wreſt it again from him. I deſire Your Lordſhips to remember, and I am ſure you will, That the main of our Complaint is, His alteration of the fundamental Laws againſt Will; His introducing of new Laws at his Will and Pleaſure: This is not only the Cry, but the Teſtimony of a whole Kingdom before Your Lordſhips; of all the Lords and Commons of *Ireland*.

I ſhall not touch that which concerns breach of Priviledge of Parliament, he would fain put that off on Sir *George Ratcliffe*, his Boſom Friend; and put it off himſelf. My Lord of *Strafford* Sequeſtred Sir *Pierce Crosby* from the Council, his Vote went with it, others joined withhim; but I am ſure he moved it, he concurred with it.

But now, *My Lords*, I humbly Addreſs my ſelf to that we are ready to maintain, The Body of the Charge: And becauſe ſome time hath been ſpent between the reading of the Charge, and the main of the Defence, I deſire leave to open what is the Nature, what the Height and Quality of the Offence, of which this great Lord ſtands Accuſed before you?

My Lords, It is a Charge of the higheſt Nature that can be againſt a man; A Charge of High Treaſon. It is a Treaſon, not ending and expiring in one ſingle Act of a diſcontented Heart, but a Habit. a Trade, a Myſtery of Treaſon exerciſed by this Great Lord, everſince the King's Favour beſtowed on him.

My Lords, It hath two Evils to deprive us of that which is good: that is, to ſubvert and take away the fundamental, the ancient Laws, whereby we are ſecure of whatſoever we do enjoy; it hath (*My Lords*) a poſitive Evil in it, to introduce inſtead of that an Arbitrary Government, bounded by no Laws, but by the Evil Councels of ſuch Miniſters as he hath been.

My Lords, It is the Law that gives that Soveraign tye, which with all Obedience and Chearfulneſs, the Subject renders to the Soveraign. It is the Law (*My Lords*) that gives Honour to the Lords and Nobles; Intereſt, Property, and Liberty to the Subject.

My Lords, The Law, (as it is the Foundation and Ground of all theſe) hath its diſtribution in a courſe of Juſtice. Juſtice is derived (as by ſo many Channels) by the ſeveral Courts of Juſtice; whereby the King's Juſtice (for it is His) is brought and conveyed to the Subject.

My Lords, Of all this hath my Lord of *Strafford* endeavered, not only to put the Subject out of preſent poſſeſſion, but to make him uncapable of the future Benefit of it.

Other Treaſons, yea, a Treaſon againſt the Perſon of a Prince (which is the moſt Tranſcendent and High Treaſon that can be) fall ſhort of this Treaſon; For a good Prince may be gathered to his Fathers, yet another may ſucceed Him, that ſupports the Glory and Juſtice of His Throne. We have had Experience of it: When bleſſed King *James* was taken from us to Heaven, *Sol occubuit & nox nulla ſecuta eſt.* But if any one ſuch a deſign as this ſhould take effect, That the Law and Juſtice ſhould be taken from the Throne, and Will placed there, we are without hope of ever ſeeing Remedy.

Power

Power in ſo great a meaſure taken, is not eaſily laid down, unleſs it be by the exceeding great goodneſs of ſo merciful and juſt a Prince as we have.

My Lords, The Particulars of this Treaſon are Conveyed to Your Lordſhips in 28 ſeveral Articles. I ſhall ſhortly and breafly touch but the Heads of thoſe on which I ſhall inſiſt, and give ſome diſtribution of them. And I think the beſt way will be this; To conſider firſt what he did; and what he ſaid, before he went into *Ireland*; then what he did and ſaid there; and what he hath done ſince. And in all of them, you will find this his main deſign, which I have opened, that Law might no where ſtand againſt his Will; and to ſettle it, that he might continue ſo.

My Lord hath declared this in incroaching Juriſdiction where it was not, in exerciſing an Arbitrary Power under that Juriſdiction; In taking on him a Power to make Laws, in Domineering and Tirannizing over the Lives, the Liberties, the Goods the Eſtates, and whatſoever is the Subjects.

And (*My Lords*) this hath he done, not only on thoſe of the meaner ſort that could not reſiſt him, but on the Peers, on the greateſt and moſt anciant Nobility of *Ireland*: and what might Your Lordſhips expect, but the ſame meaſure at his hands, had his Will had its paſſage here, which it had in *Ireland*.

I ſhall now come to the particular Articles.

1. And firſt, Whereas it pleaſed His Majeſty to place him with Power and Honour in his hand in the North as Preſident, he had not been long there; but that Commiſſion which bounded and pleaſed his Predeceſſors, he muſt needs ſurmount and overgo. There was a Commiſſion in 16 *Jac.* which the then Lord Deputy had, in which was that Legal phraſe *Secundum antiquum curſum*, his own Commiſſion 4 *Car.* perſued that, without any alteration; but being in but four years, this would not pleaſe his boundleſs Ambition, he muſt needs have the Power that the Lords in the *Star-Chamber* have, put in in expreſs terms, a Power to proceed according to the courſe of the *Chancery*, that his Conſcience might limit other mens Eſtates; That his Injunctions might ſtay other Proceedings at Law: And which is higheſt of all, if any thing be done in that Court, within theſe Inſtructions, than no Prohibition ſhould be Awarded. He would make himſelf ſafe from any ſuperviſing of other Courts.

If he Committed any man to Priſon, though a *Habeas Corpus* were granted (then which, the Subjects hath no other remedy to vindicate his Liberty) the Officer) for the encouragement of thoſe which be under his Power) muſt not obey it. And if any Fine be put upon the Officer, then comes a command in this Commiſſion, That the Fine ſhall be diſcharged; ſo he not only takes a Power to himſelf, but alſo takes the Scepter of Juſtice out of the King's Hands; for by this means there is an impoſſibility the Subjects ſhould have the Juſtice that my Lord knows is due to him; and he knows it right well: for when he was a Member of the Houſe of Parliament, it was his own motion, who now ſtands at the Barr, That all the Officers and Miniſters of State ſhould ſerve the King according to that Law, and he is the firſt Officer and Miniſter of State, that breaks it; and in the moſt tranſcendent degree that ever it was broken.

My Lords, He doth in this as much as in him lies, ſay to the Laws, Do your worſt; You can but Fine, and that you can do ſhall come to nothing; The Fine ſhall not be paid, The Officer ſhall not obey you.

If

If this had been a ſingle Act, we ſhould never have accuſed him of this Treaſon, though it comes very High, and very Tranſcendent. But the Oppreſſions and Injuſtice, the Counſels and Speeches that we preſent to Your Lordſhips, we preſent them not ſingly, but as together, deſigning and noting, what a Treaſonable purpoſe and diſpoſition is in him.

2. *My Lords*, The next thing he doth when he is in the North among the Juſtices of the Peace, and the People attending for Juſtice, you ſhall ſee what encouragement he gives them to look for it; and how foul a thing he dares to fling on the Sacred Majeſty that did advance him. He tells the Juſtices that were to do Juſtice, and the People that were to receive Juſtice, That ſome of the Juſtices were all for Law, but they ſhould find, The King's little Finger is heavier than the Loyns of the Law. Your Lordſhips may conſider what a tranſcendent Speech this was, out of whoſe Mouth it came, what ſad Accidents happened upon it; nothing could move this Lord to utter it: But his Will and his Violence muſt out, though he burſt a Kingdom in pieces for it.

3. The next thing is this, When he goes into *Ireland* you will find his Temper and Spirit not a whit allayed; but now being further from His Majeſty's Perſon, he is higher in his Power and in his Will. It is true, that Kingdom was annexed to this many years ago; but they that now poſſeſs the greateſt part of it, are Subjects of this Kingdom, deſcended from them that went from hence thither. Yet he tells them in a ſolemn Speech not ſuddenly but ſolemnly, That *Ireland* is a Conquered Nation, and the King might do with them what he would; and that their Charters were nothing worth, and bind the King no longer than he pleaſes. Surely (*My Lords*) We might ſee what he would do if he had Power. But God be bleſſed, we find not that diſpoſition any where reſented by His Majeſty; and we hope that ſuch Councels ſhall never have Acceſs to ſo good and gracious an Ear.

4. The next thing, he ſtays not in words, but will be as good as his word if he can; and he begins high. For that we preſent next, is a Peer of the Kingdom thruſt out of his Poſſeſſion by my Lord of *Strafford*'s Order; and when he ſues at Law for recovery of his Right, my Lord Threatens him. Truly Threatnings are not good, in ſuch a caſe, where a Man Sues for Jnſtice, And from him that ought to Adminiſter Juſtice, and further him in it; yet he threatens him Impriſonment, to which Peers are not ordinarily liable.

Firſt my Lord tells him, He will not have Law nor Lawyers queſtion his Orders; he might debar the Lawyers in ſome Caſes, but why a Man ſhould have a Spleen at the Law, that his Orders ſhould not be examined by, that I know not. And he goes higher; for when there was an occaſion to ſpeak of an Act of State, he tells him, That he will make him and all *Ireland* know, that as long as he had the Government there, any Act of State made, or to be made, ſhould be as binding as an Act of Parliament.

My Lords, He cannot go higher in Speeches than this, That an Act of State of his own making, and his own Power, ſhould be as binding as an Act of Parliament.

Nay, he tell them in Parliament, That they were a Conquered Nation, and muſt expect Laws as from a Conqueror.

5. Next

5. Next we ſhall ſhew divers Inſtances wherein he exerciſes Power over the Lives, Lands, and all that is the Subjects; deduced into ſeveral Articles, *viz.* the 5*th*, the 6*th*, the 7*th*, and the 8*th*.

In particular, one I ſhall be bold to open, That is the Caſe of my Lord *Mountnorris*, another Peer of that Kingdom, and a great Officer there. Some words fell from that Lord, ſpeaking of one that had trodden on my Lord of *Strafford*'s Toe, That he hoped the Party did it not in Revenge; for he had a Brother that would not have ſought ſuch a Revenge. For theſe words, ſpoke at a private Table, half a year, yea ſeven months before, my Lord of *Strafford* calls a councel of War and judges his Lordſhip to death.

My Lords, It is no wonder that he would make the King's little Finger ſo heavy, that could make his own Toe heavy enough to tread the Life of a Peer under his Feet.

And he did not only give Sentence in that Caſe, but cauſed Execution to be done in another Caſe, upon one *D.* who was condemned by Martial Law, and hanged at *Dublin*, where there was no War at all.

Other particulars will follow when I fall upon proof.

9. Then he comes to make Laws; and that is in the 9*th* Article. By the Laws of *England* and *Ireland* too, the Eccleſiaſtical Power is diſtinct from the other, it not extending to the Impriſonment of the Perſon, but is to attend the King's Courts, and to receive directions from thence; yet he makes a Warrant to the Biſhop of *Downe*, (and he made it to others too) That if any of the poorer ſort did not appear upon the Biſhop's Citation, or not obey when they did appear, they ſhould be Attached and Impriſoned; Here he makes a Law of himſelf, and ſubjects the Liberties of the Subjects to his own Pleaſure; but this was for the poorer ſort of People, though Juſtice ſees no difference in matters of Eſtate, betwixt Poor or Rich: But when he hath brought it on the Poor, he will afterwards bring it on the Rich.

10. The next is a Power of laying Impoſitions on the Subjects: Firſt he is a Farmer of the Cuſtoms, he puts exceſſive Rates upon the Commodities; that which is worth but 5 *s.* as the Hydes, he will have valued at 20 *s.* and the Wooll, which is worth 5 *s*, he will have it valued at 13 *s.* 4 *d.* and by this he takes away, in effect, whatſoever the Commodity is worth; for the Cuſtoms come very near the Value.

Another particular in this, I ſhall be bold to open, and I hope his Lordſhip will provide to give an Anſwer, He hath advanced by this the King's Cuſtoms, and a Rent of 1350 *l.* is increaſed to the Crown: But it will appear to Your Lordſhips, that the Crown hath loſt, and he only hath gained. And whereas my Lord of *Strafford* ſays there was no other Defalcations in his Patent, than in the former, that will fall out to be otherwiſe; for this is the State of the bargain.

There was a former Rent of 9700 *l.* which the Duke of *Buckingham* paid out of this Farm. On the Earl of *Strafford*'s Patent that Rent is reſerved, and as much as came to 1350 *l.* more, but in lieu of 1350 *l.* advanced to the King, my Lord of *Strafford* hath in his Grant the Surpluſage of Wines (which were not in the Duke's Patent) worth 3400 *l.* a year, beſides a Rent paid for the Term of the Wine of 1400 *l.* And whereas there was no defalcation of the Cuſtoms of *London*, *Derry* and *Colerane* in the Duke's Leaſe, which amounted

amounted to 1500 *l.* a year; my Lord of *Strafford* muſt have a defalcation for them: And then the Seizures, which were 500 *l.* a year; and for *Knockvergus* and *Straniford* 2500 *l.* a year ſo here is above 5000 *l.* a year leſs to the Crown, in lieu of the advance of 1350 *l.* a year, beſides the increaſed Cuſtoms, amounting to 12000 *l.* a year: And yet he again hath far exceeded this proportion. We ſay further, he doth not only impoſe on the Subjects, but takes away that which is the Subjects utterly and entirely, as in the caſe of the Flax. It is true, the Employment of it belongs to Women; But it is the greateſt Commodity (one of them) of that Kingdom, and of greateſt profit, the Revenue of the Cuſtom of it being 800 *l.* a year; and this he hath gotten into his own hands and poſſeſſion. This he got from the Natives, and took it to himſelf, He doth for that purpoſe iſſue a Proclamation, That they ſhall uſe it in ſuch a way wherein the Natives were unskill'd, and if it were not ſo done, it ſhould be ſeized; and it was ſeized accordingly, yea their Houſes broken open, and their Goods taken away, and brought to my Lord of *Strafford*'s Houſe, where they were employed in his works. The like we ſhall inſtance in Tobacco.

15. Next we ſhall ſhew to your Lordſhips how he hath levied War upon the King's Subjects. We opened in the beginning, what an Arbitrary Juriſdiction he ſet up; here we ſhall ſhew how he uſed it by a meer courſe of Enmity and Hoſtility. For (*My Lords*) this was the courſe; If a Decree or Order were made by him, and not obeyed, he iſſues a Warrant to the Sergeant at Arms, to go into the next Garriſon, and take Soldiers, with an Officer, and carry them to the Houſe of the party in queſtion; it is no matter where it was, but to the Houſe of them that were pretended to be diſobedient, they were to go: If the Decree had been to raiſe ſo much money, or to put parties in poſſeſſion. In plain terms, the Soldiers, were to lie like Free-booters, and Enemies on the King's People, to eat them up. They have killed their Sheep, their Oxen, and they have lain not on the parties only, but on their Tenants, till the party comes in and renders himſelf. They have burnt their Houſes taken their Wives, and Friends, and carried them away, till Obedience was rendered, and this is a levying a War upon the King; For the King and the People are both ſo united in Affection and Right of Law, that there cannot be Violence offered to the King, but it redounds to His Majeſty. Beſides, it is contrary to a Law of that Kingdom; whereby it is Enacted, That if any perſon ſhall aſſeſs Horſe or Foot, on any of the King's People, without their conſent, it is High Treaſon.

The next thing we ſhall go to, is the Favour he ſhewed to the Papiſts, in their Compoſitions and Exemptions from all penalties of Law; for they were expreſly not to be proceeded againſt, nor to be Convicted; And ſo that which hath influence into Religion and Reformation, is quite taken away, and nothing but matter of Profit is left.

The next Article is that that concerns the Kingdom of *Scotland*. Firſt he begins with them in *Ireland*; contrives an Oath, which is ſet forth in the Articles. That they ſhall obey the King's Royal Commands without exception. This he enforceth, by Fining and Impriſoning them that diſobeyed him: And ſo in all the other particulars when his Proclamations

mations were broken, his courſe was by Fine and Impriſonment to enforce an Obedience.

My Lords, He doth not only preſs them in their Eſtate, but ſtrives to infuſe into His Majeſty an ill Opinion of them; he provokes and incites Him by all his Arguments, to lay down his Mercy and Goodneſs, and Juſtice, and to fall into an offenſive War againſt that Kingdom. He gives out, that the Nation of them (not this or that man) are Rebels and Traytors: And if it pleaſe the King to bring him back to the Sword (indeed he is fit for that, it is a violent weapon) he will root out the *Scottiſh* Nation, Branch and Root; ſome few excepted of thoſe that had taken the Oath.

When he comes into *England*, he find that His Majeſty, with great Wiſdom, had pacified thoſe Storms and Troubles that threatned us there: Yet he doth inſence the King ſtill to follow this to an Offenſive War, and prevails; He plots to call a Parliament, but with an intention (if it furniſhed not his deſign) it ſhould be broken, and he would ſet up other ways of force to raiſe Moneys of the Kingdom; and this fell out unhappily: For thus far his project took, the Parliament was broken; and broken at the very time when the Subject was in debate and conſideration, how to have yielded Supply to His Majeſty.

But that he might break it, he falſly informs the King, That the Parliament had denied to Supply him; there is his Counſel, that the Parliament had forſaken the King; and now the King having tryed his People, might uſe all other ways for the procuring and raiſing of moneys; and the ſame day wherein that Parliament was unhappily Diſolved, he gives his further Counſel to His Majeſty, (which becauſe no man can put ſuch a Spirit of Malice into the words beſides himſelf, I ſhall take the boldneſs to read) That having tryed the Affections of his People, he was looſe and abſolved from all Rules of Government; and he was to do every thing that Power would admit. And that His Majeſty had tryed all ways, and was refuſed, and ſhould be acquitted both of God and Man. And that His Majeſty had an Army in *Ireland*, which he might imploy to reduce this Kingdom. It is added in the printed Book (to reduce them to Obedience) I know not who Printed it, but the Charge is only; (to reduce this Kingdom.)

And (*My Lords*) you may pleaſe to conſider, what a ſad time this man took to reflect upon theſe bad Councels, when our Hearts were ſwoln with Sorrow for that unhappy breach of the laſt Parliament. And what doth he adviſe the King? What poſitions offers he? That he was abſolved from all Rules of Government. If there be no Rule of Goeernment, (*My Lords*) Where is the Rule of Obedience? For how ſhall the People know to obey, where there is no Rule to direct them what to obey? He tells the King he was refuſed, which was untrue; for he was not refuſed to the laſt breach we had in Parliament: But we ſpeak in that point, how to ſupply the King, and to prefer it at that time, before the Complaints of our juſt Grievances.

But what doth he fall into? That which another Article we charge him with, a Plot and Conſpiracy betwixt him and Sir *George Ratcliffe* to bring in the *Iriſh* Army for our Confuſion, to root out our Laws and Government; a pernicious Counſel. He ſays not you ſhall do it; but he that perſwades it, doth as much as if in expreſs terms he had councelled the acting of it. Doth he mean that we ſhould be to his *Iriſh* Pattern; (for ſpeaking of the *Iriſh* Army, conſiſting of Papiſts and his Adherents,

he

he ſaid that he would make it a Pattern for all the Kingdoms;) did he mean to reduce us to the Pattern that he had placed in *Ireland*? Surely he meant to reduce us to a Chaos and Confuſion. He would have us without all Rules of Government; and theſe be the means, wicked and cruel Councels, and the Cruelty of an Army inſpired with his Spirit, and conſiſting of Papiſts, Enemies of our Religion: And what Mercy could we of this Religion expect from Popiſh Enemies with Swords in their hands? That cannot but ſtrike all *Engliſh* Hearts with Horrour and Dread, that an *Iriſh* Army ſhould be brought into *England* to reduce the Subjects of *England*. I hope we never were ſo far gone, in any thing, as that we ſhould need an Army to reduce us. I cannot but ſay here is the Counſel of *Haman*, when he would in one day cut off all the *Jewiſh* Nation, and have the King intend a Favour to him. The King propounds a queſtion, What ſhall be done to the Man whom the King will Honour? *Haman* thought in his heart, Whom will the King Honour but my ſelf? And ſo my Lord of *Strafford* having raiſed this Army, it was ſet up by him; and if ſuch a Counſel as this was entertained, into whoſe hands ſhould it be put? (here were *Hamans* thoughts) who ſhould have the Power of it, but he that hath inſpired it, and ſince maintained it.

Article 2.

Truly *(My Lords)* it was a deſperate Counſel; and methinks the Counſel of *Achitophel* might have been compared to it: For when he had ſtirred up the Rebellion of *Abſalom* againſt his Father, he perſwades *Abſalom* to that which might breed an irreconcilable hatred between them. Yet a Father and a Son might be reconciled. But he that adheres to the Son in this caſe, might not ſo eaſily forgive. Therefore this Lord falls upon a Counſel which he thought would never be forgiven. A Counſel of irreconcilable difference, to ſubdue us by Force and Power; and takes away all poſſibility of addreſſing our Complaints to the King, as he had done from thoſe of *Ireland*; when he not only foreſtalls their Complaints, but by a Proclamation takes order, that none ſhould come over too, without his Licence; which was in effect that none ſhould complain of his Oppreſſion without his good liking.

Some violent Speeches he uſes, ſuitable to theſe Counſels, That no good would be done upon the Aldermen, till they were hanged; That the *French* King employed Commiſſaries to look into mens Eſtates; which will be inſiſted upon in their proper place.

Next, he leived eight pence a day for maintenance of the Trained Soldiers, againſt the Will of the Country, which he ſaid was done by the conſent of the Lords of the great Councel; which we know is untrue. And we ſhall prove it untrue in the other part, where he ſays, it was done freely, by conſent of the Gentelmen of the Country: Moſt of them that did conſent, were his own Friends, and Papiſts. But the Petition of the Country, (as to that part of it that concerns a Parliament) he rejected, becauſe he would have no Parliament. And he prefers another in the name of the Country, and that he calls, The Petition of the Country.

And now I ſhall apply my ſelf to the proofs; and ſhall take care to offer nothing, but what will fall out to be proved. And ſhall firſt apply my ſelf to the firſt Article, concerning the Commiſſion for the North parts; where an Arbitrary Power was thereby granted, as is uſed in the *Star-Chamber* and *Chancery*.

In the opening of it, firſt we ſhall produce the Commiſſion of 8 *Car.* and that of 13 differs but little from it. We ſhall ſhew that theſe Clauſes were procured by him to be inſerted upon occaſion of a Gentlemans, Sir *Thomas Gore* being Fined in the Court of *Star-Chamber* there, and his being Arreſted by a Warrant from my Lord *Wentworth* here in *London.* We do not go about to prove that he ſolicited for this Commiſſion, but that he expreſſed his deſire of it; and upon that it was granted.

We ſhall prove that it was executed in this high manner, that when Phohibitions have been taken out, he hath puniſhed the parties, ſome he hath threatned; Nay, Money hath been given to thoſe that were Defendants in the Prohibition. And we ſhall offer this too, The Judge is dead before whom it was; but upon occaſion of a Prohibition, he went to a Judge, a Reverend and Juſt man, Mr. Juſtice *Hutton*; what was ſaid privately between them, we cannot tell; but we ſhall prove, that Mr. Juſtice *Hutton* complained with Tears in his Eyes, how that Lord uſed him about a Prohibition: And ſo we ſhall leave this Article with this. We ſhall not go about to prove Decrees, for which he might have Colour; but for theſe Clauſes he could have no Colour, they never being in any Commiſſion before.

The

THE First Article.

The Charge.

That the ſaid Earl of Strafford the 21ſt day of March, in the Eighth Year of His Majeſties Reign, was Preſident of the King's Council in the Northern parts of England. Article 1.

That the ſaid Earl being Preſident of the ſaid Council on the 21ſt of March, a Commiſſion under the Great Seal of England, with certain Schedules of Inſtructions thereunto annexed, was directed to the ſaid Earl, or others the Commiſſioners therein named, whereby, among other things, Power and Authority is limited to the ſaid Earl, and others the Commiſſioners therein named, to hear and determine all Offences, and Miſdemeanors, Suits, Debates, Controverſies and Demands, Cauſes, Things and Matters, whatſoever therein contained, and within certain Precincts in the ſaid Northern Parts therein ſpecified, and in ſuch manner as by the ſaid Schedule is limited and appointed.

That, amongſt other things, in the ſaid Inſtructions, it is directed, That the ſaid Preſident, and others therein appointed, ſhall hear and determine according to the courſe of Proceedings in the Court of Star-Chamber, divers Offences, Deceits and Falſities therein mentioned, whether the ſame be provided for by Acts of Parliament or not, ſo that the Fines impoſed be not leſs than by the Act or Acts of Parliament provided againſt thoſe Offences is appointed.

That alſo among other things in the ſaid Inſtructions, it is directed, That the ſaid Preſident, and others therein appointed, have Power to examine, hear, and determine, according to the courſe of Proceedings in the Court of Chancery, all manner of Complaints, for any matter, within the ſaid Precincts, as well concerning Lands, Tenements, and Hereditaments, either Free-hold, Cuſtomary, or Copy-hold, as Leaſes, and other things therein mentioned, and to ſtay Proceedings in the Court of Common Law by Injunction, or otherwiſe, by all ways and means, as is uſed in the Court of Chancery.

And although the former Preſidents of the ſaid Council had never put in practiſe ſuch Inſtructions, nor had they any ſuch Inſtructions, yet the ſaid Earl in the month of May in the ſaid Eighth Year, and divers years following, did put in practice, exerciſe and uſe, and cauſed to be uſed and put in practice the ſaid Commiſſion and Inſtructions, and did direct and exerciſe an exorbitant and unlawful Power and Juriſdiction over the Perſons and Eſtates of His Majeſties Subjects, in thoſe parts, and did diſinherit divers of His Majeſties Sub-

Article. 1. Subjects in thoſe parts of their Inheritances, Sequeſtred their Poſſeſſions, and did Fine, Ranſom, Puniſh and Impriſon them; and cauſed them to be Fined, Ranſomed, Puniſhed and Impriſon, to their Ruine and Deſtruction; and namely, Sir Coniers Darcy, Sir John Bourcher, and divers others, againſt the Laws, and in ſubverſion of the ſame. And the ſaid Commiſſion and Inſtructions were procured and iſſued by advice of the ſaid Earl.

And he the ſaid Earl, to the intent that ſuch Illegal and Unjuſt Power might be exerciſed with the greater Licence and Will, did adviſe, counſel, and procure further Directions; in and by the ſaid Inſtructions to be given, that no Prohibition be granted at all, but in caſes where the ſaid Council ſhall exceed the limits of the ſaid Inſtructions: And that if any Writ of Habeas Corpus be granted, the party be not diſcharged till the party perform the Decree and Order of the ſaid Council.

And the ſaid Earl in the 13th Year of His Majeſties Reign, did procure a new Commiſſion to himſelf, and others therein appointed, with the ſaid Inſtructions, and other unlawful Additions.

That the ſaid Commiſſion and Inſtructions were procured by the ſolicitation and advice of the ſaid Earl of Strafford.

Proofs touching the Commiſſion for Government in the *North*, enlarged.

To the point of Star-Chamber *Power.*

THe Commiſſion granted 21 *Mar.* 8 *Car.* was read, 19 Article, whereby my Lord as Preſident, or in his abſence the Vice-Preſident, aſſiſted, (*prout* in the Commiſſion) are authorized to hear, end and determine, according to the Courſe of proceeding in the *Star-Chamber*, all and all manner of Forgeries, and Extortion, *&c.* And to Fine, *&c.* So as the Fines impoſed be not leſs than by the Acts of Parliament is provided, *&c.*

Mr. *Maynard.* Whence obſerve, That he would have power in Fining to go beyond, but not leſs than the Fines in the Act of Parliament.

To the point of Chancery *Juriſdiction.*

Article 23. was read, whereby Power was given by Injunction, to ſtay Proceeding in any Court of Common Law.

Article 28. was read, whereby Power is given to ſend the Sergeant at Armes, and Attach in any part of the Realm of *England*; and to bring before the Lord Preſident, *&c.* any perſon departing the Juriſdiction of that Court, after Commiſſion of Rebellion ſued forth.

Article 29. whereby is granted, That no Prohibition be granted in the Court of *Weſtminſter*, to ſtay proceedings in that Court. But in caſes where the Court of the Preſident ſhall exceed the King's Inſtructions; and if any *Habeas Corpus* ſhall be ſued forth for not performing the Order of that Court, the party Committed, not to be diſcharged, ſo long as ſuch Orders

Orders ſhall ſtand in force; and if any Fine be thereupon eſtreated, The Treaſurer and Barons of the Exchequer to diſcharge it. *Article* 1.

Whence obſerve, That the not granting of Prohibitions, or *Habeas Corpus*'s, and diſcharging of the Fines eſtreated, are new. Mr. *Maynard.*

To the ſending of Proces actually before theſe Clauſes granted; and to the Earl of Strafford's *procuring the Clauſe to be ſupplied, when he found the Defect.*

John Gore Sworn; and being interrogated how his Father was Arreſted, and how long before this Commiſſion?

Anſwered, That Sir *Thomas Gore* his Father, was Arreſted in *London*, by a Sergeant at Arms; That his Father conceiving it to be out of the Inſtructions at *York*, did Appeal to the Council-Table: That Mr. *Maſon* argued for his Father, and made it appear, that the Preſident and Council had no Inſtructions to take a man without the precincts of the Court. That my Lord of *Strafford* fell on his Knee, and beſought the King, That if his Inſtructions might not be ſo good as to bring in a Delinquent that had affronted the Court, if by ſtepping over the water he ſhould go beyond the precincts of it, he might leave that Service, and lay his Bones in his own Cottage, Witneſs.

That his Father was Arreſted in *November*, 1632. as he takes it, and was kept 18 Weeks before he was diſcharged.

Evers Geowr Sworn, and interrogated about the time of his Fathers Arreſt:

Anſwered, That it was in *November*, 1632, and his Father kept in Priſon 14 or 18 Weeks; but referred to his Brothers Diſpoſition for a more particular Anſwer. Witneſs.

To the matter of Prohibitions.

John Muſgrave Sworn; was examined, Whether he knew of any Prohibition ſued forth in *Vaux* his Cauſe: And whether a Warrant was granted to Attach: What Threats my Lord of *Strafford* uſed to the party that ſued it out, being after *Octavo Caroli.*

After ſome Exceptions taken to it by the Earl of *Strafford*, as not being within the Charge,

The Witneſs Anſwered,

That he knew of an *Engliſh* Suit between *Muſgrave* and *Vaux*: That upon notice given by *Muſgrave*, a Prohibition was procured; Direction was given, that an *Affidavit* ſhould be made of ſerving the Prohibition. That *Affidavit* being made, a Warrant was directed to the Purſevant, or his Deputy, to Arreſt *Vaux*. On which, he was Arreſted, and Reſcued. That after *Affidavit* made of the Reſcue, a further Warrant was ſued forth for bringing in of the Reſcuers from *London*; which Warrant was now produced. That the Reſcuers being thereupon brought to *York*; and having lain ſeveral days in Priſon, an Information was Exhibited by Sir *George Ratcliffe*, then the King's Attorney at *York*, by relation of *Francis Muſgrave*: To which they did Anſwer. And after, upon full hearing, That before the Cenſure, he the Deponent, in *Michaelmas* Term, before 1632. did come to *London* on behalf of *Francis Muſgrave*, to move the Witneſs.

Court

Article 1. Court of *Common-Pleas*, to have the Prohibition diſſolved: And likewiſe *Vaux* did procure a Rule for a prohibition in the Information Cauſe; which the Witneſs offered to ſhew under the Court Hand, That it was moved by Sir *Robert Heath*, that the difference might be referred to Mr. Juſtice *Hutton*, and Sir. *Robert Heath*. That the Deponent undertook for *Muſgrave*, and *Vaux* did ſubmit: That afterwards, by Sir *George Ratcliffe*'s direction, thinking it not fit to refer the Cauſe, it concerning the Juriſdiction of the Court of *York*. My Lord Preſident being acquainted with it, the Reference went not on that Term, but ſtayed till the Preſidents pleaſure was known; with which Mr. Juſtice *Hutton* was made acquainted. That in *December*, upon his this Deponents return to *York*; and upon hearing the Information Cauſe, *December* 1632. Sir *George Ratcliffe* did offer to the Court, (the Lord Preſident being there) whether he might go on in the Information Cauſe; (for that there was a Reference between *Muſgrave* and *Vaux*, to Juſtice *Hutton* and Sir *Robert Heath*) or whether the Reference might go on or no? That the Lord Preſident thereupon anſwered, That a Rule for a Prohibition, was no Prohibition; but if there were one, he would not obey it: And whoſoever brought a Prohibition there, he would lay him by the heels. And as he the Deponent remembred, he directed his Speech to the Regiſter of the Court; and told him, there was a Letter from the King to that purpoſe: But that, he ſaid, he could not very well remember. And as touching the Reference, my Lord ſaid, It was a Cauſe that concerned the Juriſdiction of the Court of *York*; and no Private man ſhould end it: He would try the Juriſdiction of the Court upon it; and the next Term would go to *London*, and acquaint the Judges with it; and if they remanded the Cauſe back again, ſo; if not, he would Appeal to the King in it.

That after *Chriſtmas*, in *Candlemas* Term, 1632. He the Deponent went to *London* with my Lord, and moved again for diſſolving the Prohibition, and for Liberty to proceed. That again it was agreed between the Judges of that Court and my Lord, to have a Treaty: And ſeveral Treaties they had but could not agree. The effect of the Treaty was, That if a Trial could be directed at Law upon a fained Action, I ſhould go to Law, reſerving the Equity to the Court; if not. that the Judges would remand the Cauſe back again. But after they had ſeveral days met, and no Trial could be directed, nor any Action deviſed at Law to try it, my Lord thereupon ſaid, He would give no further meeting, but would Appeal to the King; and the party ſhould Petition: On which, a Petition was drawn which the Deponent offered. And the Judge ſpeaking ſomething of *Vaux*, my Lord ſaid, he ſhould not be in *England*, but he would have his Body; or words to that purpoſe.

F. Thorpe Sworn; being interrogated touching ſome words he heard Mr. Juſtice *Hutton* ſpeak touching theſe Prohibitions, and ſome other things in that point.

Witneſs. He Anſwered, He would give the beſt account he could of what paſſed; being divers years ſince: that he was with Juſtice *Hutton* in his Study, and they had Conference together (as they had many times) touching that hight that my my Lord of *Strafford* was pleaſed to carry the buſineſs of *York-ſhire* with: And that amongſt other things, my Lord was pleaſed to ſay, my Lord had been with him, and ſhewed himſelf very angry with him, becauſe he had granted a Prohibition. and this is all he could remember; He took it to be ſeven years ago, and in the Cauſe that concerned

cerned *Vaux*, as he took it; and this was at *London*: And added, That the Judge ſpake with a great deal of Paſſion, to think things ſhould be carried in that manner as they were, that the Judges ſhould not have Liberty to grant Prohibitions: For the Judge ſaid, that he had thus debated the buſineſs with my Lord, Why ſhould you be angry for granting of Prohibitions? They in the *Kings-Bench* can grant Writs of Error to examine our Proceedings; and we think it no offence, and hold our ſelves as able to Judge, as they: And it is the Juſtice of the Law that requires it to be ſo; and therefore you muſt ſubmit to us, as we muſt ſubmit to them. *Artcile* 1.

F. Thorpe being asked what he knew of my Lord of *Strafford*'s diſtaſte againſt them that ſued out, or ſollicited, or councelled Prohibitions, or *Habeas Corpus*'s?

He firſt deſired to be excuſed from ſaying any thing that concerned himſelf; but being commanded to ſpeak.

He Anſwered, That he would ſpeak nothing but the Truth, if he muſt do it, though he periſh for it: And he profeſſed, that he had not ſpoken in any place, to any perſon, what he was now to ſay.

That in the beginning of my Lord of *Strafford*'s time, it fell to him, in his ordinary courſe of Practice, to move for a Prohibition; and on his motion ſome were obtained.

That he was informed by divers Men, that my Lord of *Strafford* was much offended with him; and ſome ſpoke it to him by way of Threat, ſome others by way of Advice and Friendſhip.

That he would give over moving for Prohibitions, which he did not underſtand to be a fault, ſince the Juſtice of the Kingdom was, that they ſhould be granted; and it continued a matter of a year after.

That then he took an occaſion to go to my Lord's Houſe to *Gantropp*; and his Errand was, partly to preſent his humble Duty and Service to his Lordſhip; and in the ſecond place, if he could have opportunity, and if his Lordſhip would pleaſe to ſpeak with him, to give his Lordſhip ſatisfaction in any thing he had done in that particular; becauſe it was conceived, he oppoſed the Juriſdiction of that Court.

That after he had the Favour to ſpeak with his Lordſhip, (which was long firſt) He was pleaſed to ſay no otherwiſe than thus, I have nothing to ſay to you, you are one that oppoſe me: But at the preſent I have eaſed you of the Office of Juſtice of the Peace; ſo you need not trouble your ſelf with that.

That he did humbly thank his Honour for it; for howſoever he meant it, he took it to be no diſ-favour, but a Courteſie, he having been in three or four years, but not executing any Authority, it ſtanding not with his occaſions.

And his Lordſhip added, Hereafter you and I ſhall ſpeak further of the buſineſs; that afterwards his Lordſhip met him in *London*, in the Inner *Star-Chamber*, he then attending on a motion day before the Lord Keeper, amongſt others of his Rank.

That my Lord Preſident was pleaſed to come behind his back, and lay his hand on his ſhoulder, and ſaid, I Command you not to depart the Town. That the words were ſomething ſtrange to him; and not underſtanding well what his Lordſhip meant by it, he inſtantly went to his Lordſhip, and deſired that he might know his mind, he not very well hearing him.

That his Lordſhip repeated the words again, I Command you not to depart the Town.

Article 1. That for a matter of a Week, or ſuch a thing, he did attend under this Command: And then applied himſelf to his Lordſhip, by all Means and Friends that he could. He Petitioned three or four times; he is uncertain which: He made means, by Perſons of Quality, to his Lordſhip, That his Lordſhip would tell him the place where he was to attend, or the Cauſe for what, or the Perſon before whom; but his Lordſhip was not pleaſed to give him any ſatisfaction: only thus much he received, That he was one that did oppoſe his Lordſhip, and he ſhould attend. Seeing there was no Remedy, he made his Addreſs to a Noble Friend preſent, and acquainted him with the buſineſs; who was pleaſed to take the matter ſo to heart, as to move it to his Lordſhip.

That then he conceived the fault he had committed, The not paying the Knighthood Money in *York-ſhire*. And his the Deponent's Anſwer was, he had offered it, but was not chargeable by Law, for he had not 40 *l.* a year three years before the Coronation, as the Writ did enjoin.

E. of *Strafford*. He ſpeaks now of that which is not in the Charge; which ought not to be.

Mr. *Maynard*. We deſire he may proceed, leaving it to Your Lordſhips to ſever that which is material, from that which is not material.

F. Thorpe proceeded, and ſaid, He could not ſay he puniſhed him for the Prohibition; but he conceived, all did follow becauſe he moved ſometimes for Prohibitions: And that he had oppoſed his Authority and Power in *York-ſhire*.

E. of *Strafford*. I Appeal to Your Lordſhips Judgments, whether it be not out of the Charge; Mr. *Thorpe* could not ſearch my heart to know the Ground of the Offence.

Mr. *Whitlock*. The Charge againſt my Lord of *Strafford*, is not only the Executing of theſe Inſtructions; but alſo the exerciſing of an exorbitant and unlawful Power and Juriſdiction, over the Perſons and Eſtates of His Majeſty's Subjects, To which, the matter offered by the Witneſſes, is material.

Lord High Steward The Lord Steward, ſpeaking to the Witneſs, ſaid, Apply your ſelf as much as you can, to the point in queſtion.

F. Thorpe proceeded, and ſaid, That he conceived the Queſtion was asked him generally, What he could ſay concerning Prohibitions, or them that had to do with them.

That no Man living hath leſs deſire to ſpeak of my Lord of *Strafford*, than he had; and if he had not been asked this Queſtion on his Oath, and before that Preſence, and on this Command, he ſhould not have ſaid it: For what he ſaid now, he never had ſpoke before; and with what Sorrow he came now to ſpeak it he knew; and ſaid, that he ſpake not this to any other purpoſe, but only, That theſe things which were done, were done on the occaſion of the Prohibitions. For the matter of Knighting-money, though it were made the cauſe of ſtaying him in *London*, yet under favour, (he ſaid) That was not, nor could be the Cauſe; For he had offered it below in the Country, only thus, That he was not Chargeable by Law, but very willing to pay it, if my Lord would have him pay it;

it; ſo he might comply with his Lordſhip, or ſerve any occaſion wherein his Lordſhip was employed. *Article* 1.

And therefore that of Knighting was the occaſion taken, yet he conceived that was not the true occaſion. And laſtly, that after he had been kept 12 or 14 days under this Command, his Lordſhip was pleaſed (on that which paſſed between that noble Lord (my Friend) and his Lordſhip) to give him leave to go home, and then he paid the Money.

We deſire the Witneſs may not conceal any thing, but ſpeak it, and being demanded accordingly. Mr. *Glyn.*

F. Thorpe anſwered, There was another particular happened on him; and though another occaſion was taken, part came from the ſaid Root, but he deſired to be pardoned in not ſpeaking of it. *F. Thorpe* a Witneſs.

Being required to ſpeak, and to ſet forth what time this was, and what that Noble Man's name was, who, upon my Lord of *Strafford*'s motion, procured him libarty.

F. Thorpe anſwered, That he conceived the time to be about the Knighting-money buſineſs, and the Lord's name was, My Lord *Goring*.

Your Lordſhips may obſerve this was long before the Commiſſion in 8 *Car.* and ſome two years after my Lord of *Strafford* came to the Place. Mr. *Maynard.*

Being Interrogated further, Whether he or his Clients have forborn to move in that Cauſe of Prohibitions out of fear of my Lord of *Strafford*.

He anſwered, For his own particular he hath forborn, and durſt not adventure it, nor any that had to do with him in thoſe parts, as he knew, durſt move till of very late; For he knew very well the price of my Lord of *Strafford*'s diſpleaſure. Witneſs.

Being asked if he knew any thing of the Caſe of *Leyton*, about a Prohibition?

He anſwered, He knew nothing of it.

I humbly deſire, with Your Lordſhips leave, to interpoſe a Queſtion. E of *Strafford.*

We deſire that our Witneſs might firſt be heard out, and we ſhall not interrupt my Lord of *Strafford* in asking what queſtions he pleaſes in his juſt defence. Mr. *Glyn.*

Let the Witneſs proceed. Lord High Steward.

To Your Lordſhips Order, and in all things, I ſhall pay Obedience, I deſire nothing in the World but a clear underſtanding of the Truth in this buſineſs, and ſo I am ſure every Man doth that hears me and without Offence, and with all Reverence, I humbly offer, That the Witneſſes may ſtand apart from the Committee for the Commons, the Committee asking the Witneſſes many queſtions, which I conceive, by Your Lordſhips Rule, ſhould be asked by Your Lordſhips only; for which I crave pardon, if I have offended in moving of it, I ſtanding for my Life, and which is dearer, my Honour, and my Children. E. of *Strafford.*

Article 1.

Lord High Steward. Their Lordſhips Rule hath been kept, and things ſhall be carried clearly on all hands.

Mr. *Maynard.* We deſire the Witneſs may proceed to ſpeak concerning his own Impriſonment; and the Lord Steward Interrogating him accordingly, he kept to the ſame Point.

F. Thorpe a Witneſs. *F. Thorpe* proceeds, ſaying, That he could give no other ground for it, though another occaſion was taken, yet he conceived the true ground, becauſe he was too buſie in medling with Prohibitions.

That the Purſevant attending the Council at *York*, came to his houſe and carried him before the Lord Preſident and Council, where he attended a day, and then had liberty to ſpeak with my Lord; That his Lordſhip was pleaſed to tell him, there was an Accuſation againſt him, but they that laid it were not come to Town, therefore he muſt attend; and that they were his betters, and therefore he had reaſon to attend: He deſired to know what it was, but could not have that favour; but ſome eight days after (being in the mean time in the Purſevant's Cuſtody) he was brought to the Council-Table again, and his Lordſhip ſitting at the upper end, commanded him to kneel, he coming as a Delinquent; which he did accordingly, bringing with him a ſpirit of ſubmiſſion, knowing very well his ruin depended on his oppoſition, and on his riſing, his Lordſhip was offended, he ſtayed no longer kneeling.

Afterwards a Letter was read from ſome Gentlemen in the Country, wherein they had written, That I had ſpoken at the Seſſions a little more than became me to the Court, in defence of a Client, on a Traverſe to an Indictment. And what they had written (I confeſſed) was very true; for it was thus; upon the Traverſe of an Indictment, the queſtion being, Whether the bare Indictment were Evidence to the Petit Jury? I did ſay it was no Evidence, and I deſired to Appeal to the Judges. My Lord Preſident was pleaſed to ſay, He would teach me to know, there were other Men for me to complain to, *viz.* The Preſident and the Council. I told his Lordſhip, I was ready to complain to any where I might have Right: And I Appeal to the King's learned Council, Whether it was not Law what I ſpoke. I was then put out, and direction ſent, I muſt find Sureties, and make publick ſubmiſſion at the Seſſions for ſaying theſe words: I did find Sureties, and when I went to Sir *W. Ellis* to enter the Recognizance, He told me, I am ſorry, but I cannot help you, for my Lord of *Strafford* over-ruled us; and you are to be bound to the good Behaviour, and make ſubmiſſion at the Seſſions: And he ſaid further, That what he was enjoyned, he did perform. And all this, I conceive, originally grew, for that I did oppoſe the Juriſdiction of the Court at *York*, and not for the Cauſes pretended. And this binding to my good Behaviour was eight or ten years ago.

And being further asked, Whether he knew of any other that had been oppreſſed with this Exorbitant Power, or no?

F. Thorpe anſwered, He had heard of many, but he was not preſent at their Commitment, nor ſaw their Orders, and can ſay nothing of his knowledge; only he knew Sir *Thomas Gore* was under Cuſtody.

George Hawes a Witneſs. *George Hawes* was produced next, and interrogated, What he knew of Sir *Conyers Darcies* Fining?

I con-

Article 1.

I confeſs I was there, and gave conſent to his Fining; but it was not by virtue of the ſaid Commiſſion, for it was before my time. E. of *Strafford.*

The Manager did now ſum up the Evidence, and my Lord of *Strafford's* Anſwer was expected. Mr. *Maynard.*

I deſire a little time to retire: And after ſome debating thereof betwixt his Lordſhip and the Committee, It was Reſolved his Lordſhip ſhould have ſome little ſpace to reſt, and peruſe his Notes at the Bar, which the Manager alledged to be unuſual in any Court of Juſtice in a proceeding of this Nature. E. of *Strafford.*

My Lords, there is a great deal of difference betwixt the Caſe of a Man that anſwers for a bloody, hainous, and known Treaſon, by the Statutes of the Realm, before the Lord Steward and his Peers, in an ordinary way of proceeding; and him that anſwers a mixt Charge: partly Miſdemeanors, and partly (as apprehended) Treaſon. There is nothing in this that can be Treaſon, and when 1000 miſdemeanors will not make one Felony, ſhall 28 miſdemeanors heighten it to a Treaſon? And in that Point, in due time, I deſire my Council may expreſs themſelves, Whether any thing in this Charge (admit it all to be true) be Treaſon, that if they be but Miſdemeanors, I ſhould be admitted Council, and examine Witneſſes by Commiſſion. I had no leave to ſummon a Witneſs before *Friday* laſt, and the greateſt part of my Proofs and Charge comes out of *Ireland*; and to be debarred from theſe, under pretence of Treaſon, I conceive to be, in this Caſe, a little ſevere. But I ſhall proceed to my Defence. E. of *Strafford.*

And firſt, As for the Inſtructions which I am charged withall, being 21 *March*, 8 *Car.* they were not procured by me, I knew nothing of them. E. of *Straffords* Defence.

The Commiſſion and Inſtructions to the Preſident and Council of *York*, are of Courſe renewed on the death of one of the Council of the Fee in Ordinary, and the putting in of a Counſellor at large, is only by Letter.

Sir *Arthur Ingram*, who was Secretary, going out, and Sir *John Melton* ſucceeding, theſe Inſtructions of 21 *March*, 8 *Car.* were renew'd.

That in the Caſe of ſuch Renewing, the King's Council of the Fee, do, by the Secretary, offer the King's learned Council ſuch things as they conceive conducing to the clearing and bettering of the King's Service in thoſe parts: And it finally comes to the Lord Keeper or Lord Chancellor, and they agree it.

I proteſt that I gave no direction in theſe, nor do I conceive any thing offered, proves me to be the Man that procured them.

As to the Execution of it, from the date of that Commiſſion to this hour, I did never one Act, nor ſtayed a minute as Preſident of the Council of *York*. The Commiſſion being granted 21 *March*, *Oct. Car.* and I went towards *Ireland* in *July* following, which I can prove by my Servants, if they might be Sworn. And before I be convinced of a Miſdemeanor, I conceive they muſt be Sworn: But that now I anſwer only to Treaſon.

If I were neither privy to the taking out of the Commiſſion, nor any way employed in the executing of it, I Appeal unto Your Lordſhips, and the Getlemen of the Houſe of Commons, Whether I can be charged as Criminal, as to this Commiſſion, or any thing that proceeds from it.

As

Article. 1. As for the Sentence, againſt Sir *Conyers Darcy*, it was Juſt, and he complained not of it: Of which I have a Copy, and deſire it may be read.

That from the firſt Inſtitution of the Court of Preſident and Council at *York*, That Court had both a *Star-Chamber* and *Chancery* Power; as will appear by all the Inſtructions before that time.

That if there be an Error in a Judge, ſo that he gives a Sentence otherwiſe than a Man of a better underſtanding concieves reaſon for, there is no cauſe it ſhould be heightned to a Treaſon, to take from him his Life and Honour, and all he hath, meerly becauſe he was not ſo wiſe a Man as he might have been, nor ſo underſtanding as another: And if this be preſt on Judges, I think few Judges will ſerve. And for my part, I had rather go to my Cottage, as the Witneſs ſaith, than ſerve on theſe Terms.

The Charge lays it to be done in *May*, 8 *Car.* and divers years following, and the inſtructions came not in time till the 21 *March*, 8 *Car.* which I conceive to be a miſtaking of the year.

That as to the Sentence of Sir *John Bourcher*, which is charged upon me, but not inſiſted upon by the Gentleman, I was no way acquainted with the beginning, proceeding, or ending of the Cauſe, being all that while in *Ireland*; ſo Your Lordſhips may obſerve with what uncertainty Men may ſpeak, that do inform in ſuch Caſes.

That of the Commiſſion, the 13*th* of the King, with which I am likewiſe charged, as the Procurer of it, I had no more knowledge, than of that which was moſt forreign, being at that time in *Ireland*; and the Commiſſion renewed of one of the Council in Fee.

I ſhall now deſcend to Proofs.

That the Commiſſion 8 *Car.* was renewed upon Sir *John Melton's* coming to be Secretary, inſtead of Sir *Arthur Ingram*, The Committee admitted it.

To the Teſtimonies given by the Witneſſes, I obſerve, That *John Gore*, the firſt Witneſs, ſpeaks nothing to the renewing of the Commiſſion, but to his Father's Commitment; and that was in *November*, but what year, *Non liquet*. But this is not within my Charge, therefore I ſhall not Anſwer to that; though if it were in Charge, I doubt not, but in that, and every thing elſe, I ſhall give an account of an honeſt and juſt Man, not to ſay of a diſcreet, and a wiſe Man.

That for the Teſtimony of *John Muſgrave*, it contains nothing within my Charge: and I can ſay nothing to it, but by way of Divination. And he is but a ſingle Witneſs; and therefore I conceive, ſhall hardly be able to convince any Man of High Treaſon, hardly of a Treſpaſs.

That what *John Muſgrave* ſpeaks of, is grounded on a queſtion of the Juriſdiction of Courts; and one Rule of our Law is, *Boni judicis eſt ampliare Juriſdictionem.* And why the enlarging of a Juriſdiction ſhould be heightned to a Treaſon, I Appeal to Your Lordſhips Nobleneſs, Juſtice, and Honour, to conſider; for I think there are none in place of Judicature, but they will deſire to enlarge their Juriſdiction, as far as in Reaſon and Juſtice they may: And it is a chaſt Ambition (if rightly placed) to have as much Power as may be, That there may be Power to do the more good in the place where a Man lives.

For *F. Thorpe's* Teſtimony, I obſerve, That I have nothing to ſay to him of Exception; but that he ſpeaks nothing to the purpoſe, nor to any thing in the Charge, I being Charged with the Execution of the Commiſſion

miſſion 8 and 13 of the King; and all he ſpeaks of, is precedent in time: And what he ſays, is by hear-ſay from Mr. Juſtice *Hutton*, and Sir *William Ellis*. I do not remember my Lord *Goring*'s ſpeaking to me about Mr. *Thorpe*; it being 12, 13, or 14 years ago. I have put in my Anſwer, and if that be not Impeached by Teſtimony of Witneſſes (as it is not) I conceive it ought to be allowed. *Article* 1.

I deſire to produce Witneſſes, wherein I have Liberty; but not to examine on Oath.

And firſt, To the time of going towards *Ireland*.

His Lordſhip's Secretary being interrogated;

He anſwered, That his Lordſhip went from *London* 8 *July*, 1633. towards *Ireland*, the 9*th* year of the King.

Mr. *Railton*, To the time of his Lordſhip's going towards *Ireland*, ſaid, That 8 *July*, 1633, my Lord began his Journey into *Ireland*, being the Ninth year of the King.

The Committee for the Commons, admitted that he went over in *July* 1633. Mr. *Maynard*.

To the time of my Lord of *Strafford*'s coming from *York*;

Mr. *Thomas Little* ſays, His Lordſhip came from *York* in *January* was eight years, and returned not to *York* till 1636.

To his Lordſhip's doing any act as Preſident of *York*, ſince the ſaid New Commiſſion of *Octavo Caroli*;

Mr. *Thomas Little* ſays, That ſince the date of that Commiſſion, his Lordſhip never ſate as Preſident of the *North*, in any Cauſe whatſoever.

His Lordſhip offered to prove his being in *Ireland* when Sir *John Bourcher* was cenſured by the Vice-Preſident and Council; but the Commons not preſſing his Lordſhip in that matter, he ſaid, If it be granted, I have done. E. of *Strafford*.

To the Earl of *Strafford*'s being in *Ireland* when the Commiſſion 8 *Car.* was renewed.

Mr. *Thomas Little* Anſwered, being queſtioned, My Lord was in *Ireland* at that time; he went over in 1636, having come over in *November* before; and was not in *England* again till 1639.

And ſo (*My Lords*) I conclude my Defence, That I am charged only with procuring and executing the Commiſſion. E. of *Strafford*.

And this Anſwer I humbly offer and ſubmit.

John Gore ſpeaks particularly of the occaſion of enlarging the Commiſſion, upon the Arreſting of his Father. The Managers Reply.

That my Lord of *Strafford* fell on his Knees, deſiring from His Majeſty an enlarging of his Power; elſe that he might go home: So going out of *England* in *July* after, the Commiſſion anſwers to the Procurement that was before.

That

Article. 1.

That which his Lordſhip hath anſwered to *F. Thorpe*, That the things by him complained of, were in the time before the Commiſſion, may be uſed as an Argument, That he was privy to the Inſtructions.

We produce *J. Muſgrave*, only to ſhew my Lord's Violence about Prohibitions: before this Commiſſion was procured; he growing ſo high a little before, That he would lay them by the Heels that brought the King's Writ; The Council were awed, that they durſt not demand Juſtice: So that the procuring of it, ſuited moſt with his Deſign.

That his Witneſſes had little contradicted what the Witneſſes for the Commons had ſaid.

That whereas it is ſaid, the Charge is not Treaſon, if the Fact ſhall appear to their Lordſhips, ſatisfaction will in good time be given. That though this particular is not Treaſon, yet all the parts of it amount to the Subverſion of the Laws of the Kingdom; That is preſt as Treaſon, and this as an Evidence.

That for the ſecond Commiſſion, it follows as the other; If he procured the one, he is guilty as if he procured both, it being the ſame Power ſtill.

The

THE Second Article.

The Charge.

That ſhortly after the obtaining of the ſaid Commiſſion, dated the 21ſt of March, in the Eighth Year of His Majeſties Reign, (to wit) the laſt day of Auguſt then next following, he the ſaid Earl (to bring His Majeſties Leige people into a diſlike of His Majeſty, and of His Government, and to terrifie the Juſtices of the Peace from executing of the Laws: He the ſaid Earl, being then Preſident, as aforeſaid and a Juſtice of Peace) did publickly at the Aſſizes held for the County of York, in the City of York, in and upon the ſaid laſt day of Auguſt, declare and publiſh before the people, there attending for the adminiſtration of Juſtice according to Law, and (in the preſence of the Juſtices ſitting) that ſome of the Juſtices were all for Law, and nothing would pleaſe them but Law; but they ſhould find that the King's little Finger ſhould be heavier than the Loyns of the Law. Article 2.

WE are come now to the ſecond Article, touching words ſpoken of the King, That the King's little Finger ſhould be heavier than the Loyns of the Law. Mr. *Maynard.*

For that, we deſire to produce Witneſſes, and they will ſhew how my Lord of *Strafford* is miſtaken in his Anſwer: Or if he ſays true, As he ſlanders the King in one ſenſe, ſo he ſlanders the Law in another.

Witneſſes produced.

William Long Sworn, and interrogated, What words he heard my Lord of *Strafford* ſpeak concerning the compariſon between the King's little Finger, and the Loyns of the Law, On what occaſion, Where, and at what time?

Anſwered, When Sir *Thomas Leyton* was Sheriff at *York-ſhire*, 1632, (as he takes it) My Lord of *Strafford* being there, he heard his Lordſhip ſay theſe words. Witneſs.

That ſome, nothing would content but Law; but they ſhould know, The King's little Finger ſhould be heavier than the Loyns of the Law: And this was ſpoken in the place where the Judges ſate in *York*-Caſtle, at the Aſſizes that year.

The occaſion he knew not, but it was publickly ſpoken; and as he thought, my Lord did not then ſit on the Bench, but ſtood at the Barr.

Article 2.

Sir Thomas Leyton was Sworn; and being thick of hearing, the Manager was directed by my Lord Steward, to interrogate him to the effect aforesaid;

Sir *Tho. Leyton* a Witneſs.

Who Anſwered, My Lord ſaid, Some would not be ſatisfied but by Law; but they ſhould have Law enough; for they ſhould find the King's little Finger, to be heavier than the Loyns of the Law. His Lordſhip being on the Bench then with the Judges at that time, and abundance of the Country being there then at *Lammas* Aſſizes, at the Caſtle-Bench; And he thinks it was 1632, or 1633, but he knew not the occaſion.

Marmaduke Potter having been examined as a preparatory Witneſs, and ſince being deceaſed, it was deſired his Depoſition might be read.

Lord High Steward.

The Lord Steward declared, That the Examinations of thoſe preparatory Witneſſes, ſhould be read, in caſe any ſhould be dead.

To prove *Marmaduke Potter*'s death, *Thomas Harriſon* was Sworn: Being interrogated what he knew concerning the death of *Marmaduke Potter?*

Tho. Harriſon a Witneſs.

Anſwered, That ſince his coming out of *York-ſhire*, he heard a report from his Neighbours, that *Marmaduke Potter* is dead and buried, That he the Deponent lived a Mile from the ſaid *Marmaduke Potter*; which is Nineſcore and ten Miles from this place; but he heard no particular of the day of his burial.

The Examination of *Marmaduke Potter*, Gent. taken *January*, 1640, to the 10*th* and 11*th* Inter. He ſaith.

That about Eight years ſince, when Sir *Thomas Leyton* was Sheriff of *York-ſhire*, he heard the Earl of *Strafford* make a Speech publickly at the Bench at Summer-Aſſizes; and he ſaid then, That the King's little Finger ſhould be heavier than the Loyns of the Law.

E. of *Strafford*. Defence.

I know not whether it were material for me to Anſwer this, or no; but as the Charge is laid, it is impoſſible I ſhould be guilty of the words: For it is laid to the laſt of *Auguſt*, next following the 21*ſt* of *March*, in the Eighth year of His Majeſty's Reign; which falls out to be when I was in *Ireland*.

But I deſire not to ſtand on ſuch Niceties, but that Truth may appear.

The words confeſſed in my Anſwer, are quite contrary, being, That the little Finger of the Law, was heavier than the King's Loyns. And that I ſet forth in my Anſwer, and the occaſion of them; which theſe Witneſſes do not, or elſe will not, remember. The occaſion was this:

There came divers Levies in the year when Sir *Thomas Leyton* was Sheriff, for divers great ſums of Money for Iſſues in the Knighting-Buſineſs, on ſome that had compounded, and paid their Money to me, the Receiver of that Money then, and by me anſwered in the Exchequer; yet theſe Iſſues came down, through ſome Error above, and were levied with very great rigour by Sir *Thomas Leyton*.

When I came down, I ſpake with Sir *Thomas Leyton*, and ſhewed him how the Men were injured; and did deſire him to return the Money to them again, and I would ſee him diſcharged in the Exchequer, which he was contented to do. And then, to give ſatisfaction to the Country, I told them

them, that that Commiſſion was a Commiſſion of Grace and Favour, and that their Compounding with the King, was an eaſe to them, and much greater eaſe than by a proceeding at Law would have fallen on them, the very firſt Iſſues being three or Four times more than they had compounded the whole for. And thereupon I applyed that Speech, That the little Finger of the Law was heaver than the Loyns of the King. For if I ſhould then have fallen to threaten them, I had ſpoken contrary to the end I had propoſed, which was to incline them: And further, that not one of the Witneſſes ſpoke any thing to the occaſion of the Speech. *Article.* 1.

That it is long ſince, and was neaver yet complained of; and that man muſt have a ſtronger memory than I, that will undertake to ſwear poſitively the very words ſpoken ſeven or eight years ago: And, under favour, he ought to have better Ears than Sir *Thomas Leyton*, who appears to have ſuch an infirmity in hearing, that he muſt now be whoopt to at the Barr, before he can hear; and ſure his ſenſe of hearing is much decayed, elſe he could not have heard me, ſpeaking at that diſtance to the place where the Sheriff ſits in an open place, as far diſtant, as from the Barr where I now ſtand, to my Lord Steward, or very near.

Dr. *Duncombe* being asked, Whether he came accidentally to *York* that day? And what he heard the words repeated to be?

He Anſwered he came from *Durham*, being ſent for on other occaſions; That he was at *York* in his Journy from *Durham*, the firſt day of the Aſſizes; and being at Dinner at Dr. *Stanhopp*'s, there came a Gent. Sir *Edward Stanhopp*, who called Dr. *Stanhopp* Uncle, from the Aſſizes. That the Doctor asked what news, ſpecially concerning my Lord Preſident's Speech, he told them, that he preſt hard to hear, and could tell ſome paſſages of it. Then they asked what they were, ſays he, my Lord Preſident was ſpeaking of this, That the way of the Prerogative was in ſome particulars, eaſier than the Common Law: And in his expreſſion, he ſaid theſe words, The little Finger of the Common Law, is heavier than the Loyns of the King. This the ſaid Sir *Edward Stanhopp* told him, in the preſence of divers others, who he thinks, do remember the words were ſo related; and that he had related them often ſince, and never took it otherwiſe, till he ſaw it in the Charge; and there it was clear otherwiſe. Witneſs.

And upon further queſtion, at my Lord of *Strafford*'s motion,

He Anſwered, That he never acquainted my Lord of *Strafford* that he could ſay any thing in this, till *Sunday* night; and then talking with Sir *William Pennyman*, he told Sir *William* the Story.

My Lord of *Strafford* deſired Sir *William Pennyman* might be heard; and humbly acknowledged the Favour that had been done him by the Houſe of Commons, in giving liberty unto it upon his ſuit. E. of *Strafford.*

Sir *William Pennyman* being asked, whether he was preſent at the time when my Lord of *Strafford* ſpoke the words of compariſon, between the King's little Finger, and the Loyns of the Law; what was ſpoke, and what was the occaſion:

He Anſwered, That he was preſent at the Aſſizes at *York* at that time, and heard my Lord ſpeak theſe words in another order and poſition, than is teſtified by theſe three Witneſſes. And in truth (he ſaid) he could wiſh he ſpake now on his Oath, for he knew he ſpake on much diſadvantage; The occaſion was this, A Rumour was caſt up and down in the Country, That

Article. 2. my Lord of *Strafford* had received great ſums of money concerning Knighthood, which he had detained in his own hands, and not paid into the Exchequer; hearing of this, his Lordſhip thought himſelf much wronged in it, and took occaſion to vindicate himſelf; and there ſpoke of it, and told them, (to the beſt of his remembrance) there was ſome omiſſion on the Secretaries part, or ſome of the Officers of the Exchequer. Hereupon my Lord took occaſion to diſcourſe of the Legality of Knighthood-money; and told them, Gentlemen, you may ſee this is a Commiſſion of Grace and Favour: For whereas you may compound with the King for a matter of 20 or 30 *l.* you have in two or three Terms, run into great ſums. He added, That he did not remember the proportion; but the Inference was, So that you may ſee, that the little Finger of the Law, is heavier than the Loyns of the King.

Mr. *Maynard.* One of the Managers deſired he might be asked, by what means this was brought into his memory, and how long ſince.

He Anſwered, He had the retention of it in his memory before; but it was revived on occaſion of theſe Articles, when they were exhibited.

Mr. *Maynard.* It is enough, and he did his Duty well, that being a Member of the Houſe of Commons, he never informed the Houſe of it.

E. of *Strafford.* *My Lords*, I deſire my Anſwer may be read; wherein, the occaſion, and the words, are directly ſet forth quite contrary to thoſe in the Charge; and I proteſt, that I will take my Oath on it, That it was ſo.

And my humble requeſt is, that no Witneſs I produce, may be prejudiced for any Teſtimony he ſhall give here, being with the Liberty, and Allowance of both Houſes. For if they ſhould be diſcountenanced, nay, puniſhed for it, I ſhould think my ſelf a very unhappy man indeed; and rather than I ſhould prejudice any man in that kind, I profeſs, I would put my ſelf on God's Mercy and Goodneſs; and not make uſe of any Member of either Houſe, (and my principal Witneſſes muſt be of both Houſes) rather than acquit my ſelf by their prejudice; for I account it an unjuſt thing, to overthrow another to ſave my ſelf.

Mr. *Maynard.* The Teſtimony of a Member of the Houſe, hath great credit in the Houſe, and they take not the leaſt exception againſt Sir *William Pennyman*, for any thing he ſaid before their Lordſhips, but wiſh he may ſpeak with clearneſs and truth; but had he informed this particular himſelf to the Houſe, he had done my Lord of *Strafford* more right, than by not informing, to let it come in Charge; and bring in his Teſtimony contrary to his Vote. When a Witneſs hears a thing in queſtion, though it be not required of him, certainly he ſhould vindicate the Reputation of his Friend, in contradicting it in ſeaſon, but it is not ſo done; and certainly his ſilence to the Houſe; was not well.

E. of *Strafford.* *My Lords*, This concerns me nearly, This Gentleman, Sir *William Pennyman*, is my Noble Friend, and a Worthy Gentleman; and I would give him my Life on any occaſion: But I know him to be a Perſon ſo full of Virtue and Nobleneſs, that he would not ſpeak an untruth for all the world; perhaps he might not think fit to ſpeak it in the Houſe, men are left at their liberty.

The

The Charge came out in Print very lately, and whether Sir *William Pennyman* might know any thing of it, I leave it to thoſe that better underſtand it. But with this humble Requeſt to the noble and worthy Gentlemen of the Commons Houſe, That they would pleaſe to regard it ſo, that no man may ſuffer by me, I proteſt I had rather ſuffer ten thouſand times, my ſelf. *Article* 2.

The Buſineſs concerns the Houſe of Commons, the Committee knows not how they will apprehend it; But it is only offered, That the Judgment of the Houſe of Commons may not be prejudiced. Mr. *Glyn.*

The Lord Steward concluded this matter, That his Lordſhip is put upon the Trial of his Peers, who will give him all fair Reſpect. That his Lordſhip ſhall be denyed no juſt way for his clearing, that he could ſay nothing in the Name of the Lords to this particular that's come out on the preſent, nor theſe Gentlemen in the name of the Commons, only he may be ſure to find all that is fit: which my Lord of *Strafford* ſaid he doubted not, and hoped their Lordſhips would pardon him for moving it, it concerning him very much. Lord Steward.

As to the miſtake in point of time, the Commons laying it to be after the Commiſſion 21. *March*, 8 *Reg.* and proved it to be before the time, is not at all material. The offence is not that he ſpake it on that day, but that he ſpeak the words. Mr. *Maynard.*

The Exception to Sir *Thomas Leyton*'s Teſtimony, that he had need to have better Ears; he is a Gentleman of worth, his Depoſition is an Oath, and he knew what beſt what he heard; the truth is, he ſtood within little diſtance of my Lord when he ſpake the words, and hath not been deaf above two months, and two other Witneſſes concur fully with him.

For Doctor *Duncombe*, whether he be the man that laid Aſperſions in the North on ſome Noble Lords, I know not, but his Teſtimony only is, that he heard ſo from one that ſpake it at the Table, not upon Oath, and not knowing what uſe would be made of it. And another Witneſs ſhall be produced, that will ſpeak to the occaſion, and that it was not the matter of Knighting-money.

Sir *Thomas Leyton* being asked how long he hath had this Infirmity in his hearing.

Anſwered, that he got a great Cold ſince he came to Town, and had this Imperfection ſince *Chriſtmas*, and had his hearing well before.

Being asked how far he ſate from my Lord of *Strafford*.

He Anſwered four yards off.

My Lord of *Strafford* deſired it might be asked the Witneſs, Whether he ſat on the Seat where the Sheriffs uſes to ſit, he anſwered Affirmatively. His Lordſhip excepted againſt his Teſtimony, himſelf ſitting where the Preſident uſes to ſit, betwixt my Lord Chief Baron and Mr. Juſtice *Vernon*: And he Appealed to my Lord Chief Baron, Whether the Preſident's Seat and the Sheriff Seat be not as far diſtant, very near as far, as from his Lordſhips then ſtation to the Lord Steward.

But the Committee obſerved it not to be material, that there ſhould be any Geometrical meaſure, but be three, four, five, ſix, or ſeven yards off.

Here the Committee offered other Witneſſes, but my Lord of *Strafford* deſired their Lordſhips Judgment, Whether they ſhould not bring all together, which the Lord Steward declared they might as to this Point.

Sir *David Fowles* being produced, was excepted againſt.

My

Artcile 2.
E. of *Strafford.*

My Lords, He is no competent Witneſs, he lying in the *Fleet*; on a Sentence in the *Star-Chamber* at my Suit; being fined for divers things he had ſaid, which concerned my ſelf, which depended on this in queſtion, and conducing to it.

Mr. *Maynard.*

He comes not at his own Requeſt or Suit, but in a Suit that concerns His Majeſty and the Commonwealth, and might offer the Preſidents own Rule in the Caſe, but that the Law ſpeaks for him; that a Witneſs ought to be heard in this Cauſe, though there have been particular ill affections between them, and your Lordſhips well know how to compare him with other Witneſſes, and to value him accordingly.

Lord High Steward.

This hath been Reſolved in the Caſe of Sir *Pierce Crosby*, that he ſhould be ſworn, and then value his Teſtimony, as the Lords ſhall ſee Cauſe, and this may be put into the ſame way.

Sir *David Fowles* being ſworn, the Lord Steward put them in mind of the former Caution, that their Lordſhips would judge the value of his Teſtimony, the Committee not admitting what was excepted againſt him he being not to obtain any thing for himſelf, nor his own Intereſt concerned, but produced for the King and Commonwealth, and therefore an indifferent Witneſs in the Caſe.

And then being Interrogated, touching the words of Compariſon between the King's little Finger and the Loins of the Law, whether he heard them, and the occaſion.

Sir *David Fowles* a Witneſs.

Sir *David Fowles* anſwered, He heard him ſay the very ſame words, That there were ſome for Law, and nothing but Law; but the King's little Finger ſhould be heavier on them than the Lions of the Law. The occaſion he cannot well remember; but there was ſome diſcontent taken by my Lord againſt him he being deſired by a Meſſenger to levy Money to mend a Bridge, he told the Meſſenger, He could not well do it of himſelf, for there was a Statute, as he took it 24 *H.* 8. that appoints four Commiſſioners to be at the doing of ſuch Service, and he being but One, durſt not undertake to do it: Beſides, he ſaid, He muſt ſee an Order or Warrant from the Seſſions, elſe he could not do it, and none was ſhewed. Some other Exceptions he took to the unlawfulneſs of the buſineſs, and the Meſſenger reported this to my Lord, and that he conceived was the cauſe my Lord broke out ſo violently againſt him.

But being Interrogated on what occaſion the words in queſtion were ſpoken.

He anſwered, Before my Lord went to *Ireland*, he made a Speech to the whole County, and deſired them to go on in their Service; and ſo break out, Some are all for Law, but they ſhall find the King's little Finger heavier on them than the Loins of the Law. And this is all he can remember.

Sir *William Ingram* Sworn and examined, touching his knowledge of theſe words.

Anſwered, That he was on the Bench at that time, Sir *Thomas Leyton* was Sheriff, and he heard my Lord ſpeak theſe words; Some of you are all for Law, but you ſhall find that the King's little Finger is heavier than the Loins of the Law, but he doth not remember the occaſion.

The

Article 2.
E. of *Strafford.*

The main point I muſt inſiſt on is, That the very words, if they had been ſpoken by me, as they are laid (concerning which, I call God to witneſs, I have ſpoken the truth, and the occaſion.) It is no Treaſon within the Statute. And that being a point of Law, I crave leave to reſerve my ſelf according to your Lordſhips Order, that my Counſel, in time fitting and proper, may ſpeak as concerning that in point of Law.

Mr. *Maynard.*

We ſhall cloſe this Article, the laſt thing mentioned by his Lordſhip was ſpoken to before; as to the words we had five Witneſſes expreſs in the Point, and therefore ſhall expect Your Lordſhips Judgment in that. And ſo the Court was adjourned.

The Fourth day.

Thurſday, March 25, 1641.

THE Third Article.

The Charge.

Article 3.

That the Realm of Ireland having been, time out of mind, annexed to the Imperial Crown of this His Majeſties Realm of England, and Governed by the ſame Laws: The ſaid Earl being Lord Deputy of that Realm, to bring His Majeſties Liege-Subjects of that Kingdom likewiſe into diſlike of His Majeſties Government, and intending the ſubverſion of the Fundamental Laws, and ſetled Government of that Realm, and the deſtruction of His Majeſties Leige-people there; did upon the 30th day of September, in the Ninth Year of His now Majeſties Reign, in the City of Dublin (the chief City of that Realm, where His Majeſties Priby-Council, and Courts of Juſtice do ordinarily reſide, and whither the Nobility and Gentry of that Realm do uſually reſort for Juſtice,) in a publick Speech, before divers of the Nobility and Gentry of that Kingdom, and before the Mayor, Aldermen, and Recorder, and many Citizens of Dublin, and other His Majeſties Leige-people, declare and publiſh, That Ireland was a Conquered Nation, and that the King might do with them what he pleaſed: And ſpeaking of the Charters of former Kings

Article 3. Kings of England made to that City: He further then ſaid, that their Charters were nothing worth, and did bind the King no further than he pleaſed.

E. of *Strafford.* I Humbly move your Lordſhips, That ſince divers things were ſpoken by the Witneſſes Yeſterday, which I conceiving not material as to the Charge, forbore to anſwer to them, whereby I underſtand I have received ſome prejudice; therefore I deſire I may now give ſatisfaction therein, being well able to do it.

Mr. *Maynard.* We hope your Lordſhips remember your own Order. We deſire he may not have that allowed him to day, which was not granted him Yeſterday.

The Evidence having been given for His Majeſty, my Lord of *Strafford* having Anſwered, and the Commons Replied: Touching which the Lord Steward declared, that the due Courſe had been followed; The Evidence being given for the King, my Lord having Anſwered, and a Reply made.

E. of *Strafford.* *My Lords*, This is a Court of Honour, which is a Rule to it ſelf, and no other Court is a Rule to it; and therefore if any thing were omitted one day, through want of Memory, Your Lordſhips may in your Nobleneſs allow another. Your Lordſhips being your own Judges and Rule, and moſt fit it ſhould be ſo. I do therefore beſeech Your Lordſhips, that I may have liberty to offer new matter formerly omitted, elſe I ſhall be on great diſadvantage, being to Anſwer on a ſudden, and had no time till *Friday* laſt to bring in Witneſſes, and many perhaps may come up before my Trial ends.

Mr. *Glyn.* We deſire in the Name of the Commons of *England*, we may proceed according to the Rule propounded, that his Lordſhip may not invert the courſe on pretence of new matter, for then it will be impoſſible for us to make good the Charge: (Which was accordingly Reſolved adding further, that there hath been oſtentation of more Evidence, We deſire it may make no Impreſſion with your Lordſhips.

Mr. *Maynard.* We ſhall open the Third Article, containing very ſeditious words, ſpoken by my Lord of *Strafford*, in a publick Aſſembly, to the King's Subjects, That *Ireland* is a Conquered Nation, That the King may do with them what he pleaſeth: And ſpeaking of the Charters of *Dublin*, He ſaid, The Charters are nothing worth, and binding the King no farther than he pleaſes.

E. of *Strafford.* I humbly deſire, *My Lords*, that the Witneſſes may ſtand in another Room from the Committee, it being not uſual in other Courts, though I dare not offer any Court to be a Rule to this, and that Your Lordſhips will direct the queſtion.

Mr. *Maynard.* We have been ſenſible his Lordſhip hath been large in his Imputations. We ſhall behave our ſelves as become us in duty; we ſpeak nothing to the Witneſſes, but what any Man may hear, and we muſt tell them what they muſt ſpeak to, and leſs we cannot do.

I am

Article. 3.

I am the loatheſt man in the World to ſpeak any thing that may give offence in general or particular; neither did I charge any only, deſired that they might ſtand clear, and that the queſtion might come immediately to them from your Lordſhip. E. of *Strafford.*

Robert Kemyday produced and ſworn.

I humbly offer to your Lordſhips, That the Witneſs hath been queſtioned for many Miſdemeanors, and extortion in execution of his Place, as Remembrance of the Exchequer, and for this was ſentenced; and that he knew he wiſhed his Lordſhip no great good; and left it to their Lordſhips, Whether he be a fit Witneſs, adding it to be a his Misfortune, That all that have ſufferd under the King's Juſtice in his Miniſtry, are ready to be Witneſſes againſt him. E. of *Strafford.*

My Lords, if he be guilty of Extortion, it follows not that he is therefore guilty of Perjury, neither doth any thing ſtand proved: But if he hath taken a ſum of Money, that makes him not to be believed when he gives Teſtimony. Mr. *Maynard.*

R*obert Kennyday* being examined what words my Lord of *Strafford* ſpake in *Dubling*, of *Irelund*, Whether it was a Conquer'd Nation, and what he ſaid of the Charters of *Dublin*, and when. *Robert Kenuyday* a Witneſs.

He Anſwered, That 30 of *September*, 1633. he was the King's Remembrancer in *Ireland*, and that day the new Mayor of *Dublin* was preſented to my Lord. The Recorder of the City making a Speech, touching the Preſentment of the Mayor, cited many of the Favors and Graces of the Kings and Queens of *England*, and, among the reſt, one Charter, wherein he alledged was contained; That no Lieutenant, Deputy, or Governor for the time being, or any Juſtice or Juſtices could aſſeſs, or lay any Souldiers in the City of *Dublin*, without their conſent. That after the Recorder had made an end of Speaking, my Lord Lieutenant was pleaſed to Anſwer him in many Particulars: Among the reſt, he told them, You are a Conquer'd Nation, and the King may do to you what he pleaſes, and for your antiquated Charters, they bind nothing further then pleaſes Him.

The Witneſs added ſome things, to take off the Aſpertions caſt on him by his Lordſhip, ſaying, he was never brought to Cenſure.

Being asked on my Lord of *Strafford*'s Motion, whether he ſaid they were not void by miſuſage, or the like.

He anſwered, no truly, Not a word that he heard.

Richard Earl of *Cork* produced and ſworn.

I muſt profeſs, *My Lords*, my ſorrow and unwillingneſs to ſpeak my Exceptions to the Earl of *Cork*, as conceiving him no competent Witneſs in reſpect of an Information exhibited againſt him in the *Caſtle-Chamber*, by the King's Attorney there, which I deſire may be read, and is, I will not ſay in all the points of it, but ſo far acknowledged, that he confeſſes himſelf, under his Hand and Seal, to be in the mercy of the King, and deſires he may be made the Object of his Majeſty's Compaſſion, not of his Juſtice. And when your Lordſhips ſhall ſee the nature of it, I Appeal to your Lordſhips, Whether my Lord of *Cork* ſhall be admitted as a Witneſs againſt me, eſpecially he being a little diſpleaſed, and I am ſorry for it; E. of *Strafford.*

Articles.

for ſomething done in the Cauſe, he giving 15000 *l.* for a Compoſition which the King had.

Lord *Digby.*

There are two grounds of my Lord of *Strafford*'s Exception to the Earl of *Corke*'s Teſtimony, as I conceive. Firſt, His Cenſure, or queſtioning upon the Information againſt him in the *Caſtle-Chamber*, which we have heard, to be much of the nature of the *Star-Chamber* here: And that part we ſuppoſe, was cleared by Your Lordſhips wiſdom yeſterday; That not a Cenſure, much leſs an Information in the *Star-Chamber*, ſhould be a fit Exception againſt a Witneſs. The other part is, the ill will which my Lord of *Corke*, may bear my Lord of *Strafford*, on that occaſion. Truly, (*My Lords*) if ill will, and offence againſt my Lord of *Strafford* ſhould be an exception and prejudice to a Witneſs, I am afraid there will be few in the three Kingdoms, whoſe Teſtimonials will not be prejudiced. But this I humbly offer to Your Lordſhips likewiſe, My Lord of *Corke* is a Privy Councellor to his Majeſty, and made a Privy Councellor ſince by His Majeſty; and certainly it is not ſeemly, to have that Reproch caſt on ſuch a Perſon, That for a proſecution in the *Star-Chamber*, he ſhould be made an uncompetent Witneſs.

The reading of the Information being hereupon denied, my Lord of *Corke* was asked, What words he heard my Lord of *Strafford* ſpeak, touching *Ireland* being a Conquered Nation, and that the Charters of it were of no value, further than it pleaſed the King to make them.

Lord *Corke* a Witneſs.

His Lordſhip anſwered, And firſt deſired leave to ſpeak a word, hoping he ſhould do no wrong to any man: That when he had obtained my Lords Licence, under the Great Seal, to come over hither, he came with as great a Reſolution, never to complain of any ſufferings he had, or to Petition againſt him, as any man did, and left all his Papers and Writings behind him, that he might have nothing to move him againſt my Lord of *Strafford* but to do him all the ſervice he could.

To the queſtion, his Lordſhip ſaid, That all he can ſay, is this, that he was preſent that day the Mayor of *Dublin* was preſented to my Lord Deputy that then was, and the Recorder ſet forth the Great Charters they had from the ſeveral Kings of *England*; and fell on that matter of placing Soldiers in *Dublin*, with out their conſent; That my Lords Anſwer was, You muſt underſtand, Mr. Recorder, *Ireland* is a conqured Nation, and the King may give them what Laws he pleaſes. And then going forward with the Charters, he ſaid, They be old Antiquated Charters, and no further good, than the King is pleaſed to make them: To that ſenſe (he ſaid) he is ſure.

Mr. *Maynard.*

We deſire to obſerve to Your Lordſhips, That this time, was not the only time; he ſpoke the very words in effect, to the whole Kingdom afterwards, in Parliament.

Lord *Gorminſtone* a Witneſs.

The Lord *Gorminſtone* produced and ſworn: Being asked whether he heard my Lord of *Strafford* ſpeak words to the effect as a foreſaid, That *Ireland* was a conquered Nation, *&c.*

His Lordſhip Anſwered, That he remembers, that in the 10 year of the King's Raign. 1634. on occaſion of a Petition preſented to my Lord Lieutenant, in behalf of the Country (as far as his remembrance leads him) from the Houſe of Commons, deſiring the benifit of ſome Graces his

His Majeſty had been pleaſed to confer on them, and he in the open Parliament, ſitting under the Cloth of State, in preſence of both Houſes, told them, *Ireland* was a conquered Nation, and they muſt expect Laws as from a Conquerour: And the Inſtructions granted from His Majeſty for ſetling the Government of that Kingdom, were procured from a company of narrow-hearted Commiſſioners, *Article 3.*

Being asked on my Lord of *Strafford*'s motion, when theſe words were ſpoken, whether the firſt day of the Parliament, or at any other time:

His Lordſhip anſwered, That to his beſt remembrance, it was not the firſt day of the Parliament.

My Lord of *Strafford* ſaying it was at the opening of the Parliament, and the ſecond day; my Lord *Gorminſtone* being further asked about the time:

His Lordſhip anſwered, He knew not whether it were the ſecond day, or another day, but the particular words he took notice of; and it was in preſence of both Houſes of Parliament, the Speaker ſtanding at the Barr.

The Lord *Killmallock* produced, and Sworn; and interrogated touching the ſame words.

His Lordſhip anſwered, That he was a Member of the Commons Houſe, the 10th and 11th of the King, and the Houſe of Commons Petitioned the then Lord Deputy, the Earl of *Strafford*, for the gaining of the Act of Limitations, for the confirming of their Eſtates, amongſt other Graces granted to the Agents for that Kingdom, in the forth year of the King. Theſe Graces he anſwered to in writing; and on the ſecond or third day after, came into the Houſe of Lords, and there ſent for the Commons; and in his Speech (amongſt other things, I well remember, and to my grief, and to the grief of that Kingdom) he uttered theſe words, That that Kingdom was a conqured Nation, (the words as he remembred) and therefore they muſt expect Laws as from a Conqueror; adding further, that the Book of Inſtructions, eſtabliſhed in King *James* his Reign, for the orderly Government of the Courts of Juſtice in that Kingdom, were Inſtructions contri ved, and procured by a Company of narrow-hearted Commiſſioners, who knew not what belonged to Government. Lord *Killmallock* a Witneſs.

Sir *Pierce Crosby* being asked touching the ſame words,

Anſwered, That he very well remembred the words, as they had been ſpoken by the Noblemen that had been examined before him; my Lord of *Strafford*, then Lord Deputy of *Ireland*, in the hearing of both Houſes, ſaid, That *Ireland* was a Conquered Nation, and that the Conqueror ſhould give the Law. He added further, that the Book of Inſtructions for the Government of that Kingdom, was drawn up, or procured, by the means of ſome narrow-hearted Commiſſioners, meaning thoſe Commiſſioners that were employed by Commiſſion from the King out of the Houſe of Commons, being a ſelect Committee, whereof there was one that is now a Noble Member of this Houſe, that ſits on the Earls Bench: And that he hath heard many of both Houſes, repeat the ſame words as ſpoken by him. Sir *Pierce Crosby* a Witneſs.

And ſo the Commons concluded the Article, expecting my Lord of *Strafford*'s Anſwer.

Article 3.

E. of *Strafford.*

After a quarter of an hour s reſpit, my Lord of *Strafford* began his Defence as followeth:

Firſt, I deſire to open two points ſet forth in my Anſwer, which under favour, I muſt ſtand to, as that by which I muſt ſtand or fall. Frſt, That the Kingdom of *Ireland*, (as I conceive) is governed by Cuſtoms and Statutes, and Execution of Martial Law, and Proceedings at Council-Board, in a different manner from the Laws of *England*. Secondly, That touching the Charters, I ſaid, theſe Charters were void, and nothing worth, and did not bind the King further than he pleaſed; both which I hope to make good.

The other buſineſs, that comes in *De novo*, is no part of my Charge, and therefore I hope will not be laid to my Charge.

I obſerve in the beginning of this part of the Charge that concerns *Ireland*, That the Governours for the Crown of *England*, that have been in *Ireland*, in all Ages, almoſt, have had theſe misfortunes, That the Native Subjects of that Country have not been propitious towards them. I inſtance in the caſe of Sir *Jo. Perott*, who on Teſtimonies here, was Attainted of Treaſon in a Legal ordinary way of proceeding, whereupon he loſt his Eſtate, though not his Life; and afterwards it was confeſt, there was little truth in all that Accuſation.

Next, my Lord of *Faulkland*, againſt whom, many of the Witneſſes that I think will come againſt me, informed; as Sir *Pierce Crosby* for one, my Lord *Mountnorris* for another, and divers others; who had ſo prejudicated me when I went into *Ireland*, in their Opinion, by the generality of their Charge, that I was a little diſtruſtful whether it was not ſo: And thus much I have ſpoken once before His Majeſty at the Council-Board, on another occaſion, and now ſpeak it to Your Lordſhips, to the Honour of that Perſon, that is now with God, my Lord of *Faulkland*, notwithſtanding all the heavy cries that were againſt him, and the wrongs and injuries laid to his Charge, I had the fortune to have all the Examinations whereupon they proceeded, and looked over them all; and now I proteſt, and call God to witneſs not any way as making to me, I found the ſaid Lord to have proceeded as Honourably, Juſtly, and Nobly, to his underſtanding, as any man could do; and yet was decryed as much as any man could be. And ſo I beſeech Your Lordſhips to conſider me the King's Servant; and that in the Adminiſtration of the Commands and Juſtice intruſted with me, I had occaſion to give offence to many, and that it hath been the ill fortune of thoſe that have been Governours there, when they have left the Government, not to be ſo well reported as otherwiſe they might be.

Beſides, There is nothing in this Charge can poſſibly amount to Treaſon, admit all to be as it is laid, though perhaps to a Miſdemeanour.

That if it be no Treaſon, it will fall to be but Miſdemeanour; and then I conceive it ſtands with the Juſtice and Practice of this Court, to allow Council and Witneſſes, which I am debarred from, by the involving me under the general Charge of Treaſon; and having no further time to prepare, then ſince *Friday* laſt.

That though before, I durſt not ſay Your Lordſhips were bound by Rules of any Judicature, but ſtood to Your own Honour and Nobleneſs, and were a Rule to Your ſelves, (and herein I take Your Lordſhips to witneſs) yet ſince the Gentlemen at the Barr, have preſt the rules of other Courts, I deſire leave to offer, That in all ordinary Courts of Judicature that ever I heard of, where the Criminal party doth Anſwer, and

and that Anſwer is not replyed to, nor he admitted to make his proof, the Anſwer of the party is taken and confeſt; from which univerſal Rule of Juſtice, no man can ſhew him a tranſgreſſion: And therefore, ſince I cannot be admitted my proofs, it being impoſſible to fetch Witneſſes out of *Ireland* ſince *Friday* laſt, my Anſwer, I conceive, ought to be admitted, and the Charge taken as I confeſt it, not as it is on proof. *Article* 3.

Saying to my ſelf, that I ſaid I would go on to give the beſt Anſwer I could, on a ſudden, profeſſing, That if I had time, I am confident, through the mercy and goodneſs of God, and the Innocency of my own heart, I ſhould be able to clear my ſelf of Treaſon (the greateſt Crime between man and man) towards His Majeſty, and towards His People, (my heart being Innocent of it; and never having ſuggeſtion or thought, but for the Greatneſs and Honour of His Majeſty, and the proſperity and bleſſed Eſtate of His People, all the days of my life; and ever deſiring the beſt things, and never ſatisfied I had done enough, but did always deſire to do better) but alſo of all other foul Crimes of Injuſtice or Oppreſſion: Errors I may have many; perhaps my Tongue hath been to free, my Heart perhaps, hath lain too near my Tongue; but God forbid every word ſhould riſe up in Judgment againſt me. If every word that's ſpoken amiſs ſhould be obſerv'd, who is able to endure it; for words ſpoken, ten, twelve, eight or nine years ago, to be brought in Judgment of me, is a very heavy Caſe; and I beſeech your Lordſhips to turn the Caſe inward, and to tell me if it be not a hard Caſe to be put upon ſuch an Examination.

I ſhall obſerve further, that words ought to be charged within a certain time by the Proviſo in the Stat. in *E.* 6. time, they muſt be brought in queſtion within 30 days as I take it, which Proviſo ſtands good in Law; but I go now into a Learning that God knows I have little skill of; to this I deſire my Council may in due time be heard, to open and Plead. In the mean time I deſire to ſay, that if popular actions muſt be concluded within a year or two at the moſt, ſure words ſhould be queſtioned within a leſs time.

I ſhall proceed to maintain the truth of my Anſwer, That *Ireland* is not governed by the ſame Laws that *England* is; and for that I ſhall read a few words in my Lord *Cooks* Learning (which God knows I underſtand not) it is in *Calvini* Caſe; where the words are, *So as now the Laws of* England, *became the proper Laws of* Ireland. And therefore becauſe they have Parliaments holden there, whereat they have made divers particular Laws, as it appears in the 20 *H.* 6. 8. and 20. and in *Ed. Dyer* 360. And for that they retain to this day divers of the ancient Cuſtoms, the Book of 20 *H.* 6. holds, That *Ireland* is governed by Laws and Cuſtoms ſeparate and divers from the Laws of *England*.

Therefore in all things belonging to my Charge that came out of *Ireland*, I hope Your Lordſhips will take along with you the conſideration of the Cuſtoms and Practices of that Kingdom, and not judge me according to that which hath been the Cuſtom and Practice of the Kingdom of *England*.

In the ſecond place, I come to the words of *Ireland* being a conquered Nation; The words laid in the Charge being, that I ſhould ſay, That *Ireland* was a conquered Nation, and the King might do with them what he pleaſed.

And firſt, I ſhould do extreamly ill to the Honour of the *Engliſh* Nation, and to the memory of divers of Your Lordſhips Noble Anceſtors, if I ſhould

Article 3. I ſhould not both ſay and think, that *Ireland* is a conquered Nation; when here's mention made in the Laws, and in the Acts of State, of *Engliſh* Rebels, and *Iriſh* Enemies, certainly there is ſomething in that; for till the Kings of *England* gave them the advantage and benifit of the Laws of *England*, it is well known, they were held *Iriſh* Enemies, and ſo termed and ſtyl'd in all the Records one ſhall meet withal in theſe times. And that it was a conquered Nation, I have very good Authority in the Statute made 11 *Eliz.* at the Attainder of that famous Rebel *Shan Oneale*.

In one part of which it is ſaid,

That all the Clergy of the Realm aſſembled in *Armagh*, at the time of the Conqueſt, *&c.* See the Statute.

It is then ſo much for me to ſay what's in the Act? And is it not for the Honour of the *Engliſh* Nation to ſay it? And it muſt be ſaid to the Worlds end, for it is a truth. And therefore there is no cauſe it ſhould be taken ſo hainouſly, or heard with ſo much diſpleaſure; and if I diſpleaſe for telling the truth, I cannot help it: He reads another part of it, *viz.*

And therefore it is to be underſtood, that King Hen. 2. *the firſt Conqueror of this Realm,* &c.

And ſo it hath been acknowledge in all ſtories and times, and many an *Engliſh* man hath ſpent his blood in it, whoſe poſterity will be aſhamed to view it, other than as a conquered Kingdom.

Nay I believe many Noble Perſons are yet living, that have bled for it, and will take it ill, if it be termed leſs than a Conqueſt, in them who lived in thoſe famous times, and ſpent their blood in Obedience to their Soveraign's Command.

So that by theſe words candidly and rightely taken, no manner of ill could come being ſpoken, not with any ſharpneſs or upbraiding, but meerly to let them ſee, That being in that Condition, they were infinitely bound to the Kings of *England*, who were pleaſed to communicate to them the Laws of their own Kingdom: And ſo far were they from being taken ill, that no man at that time took offence at them.

For the words, The King might do with them what he pleaſed, let them relate to the Conqueſt, and there is no offence in them; for the Conqueror might give them what Laws he pleaſed, and yet nevertheleſs, hath been ſo gracious and good, as to give them the Laws of his own People: Give me that underſtanding of the words, and then where is the Crime? How can it be brought in Judgment againſt me in it ſelf, or be aggravated to High Treaſon.

I acknowledge I did ſpeak to the Recorder of *Dublin*, yet ſome things I am put in mind of, which I am forced to deny with a great aſſeveration, That I do not remember the words, nay, I am ſure I never ſpak them, let all the world, and a cloud of Witneſſes, ſay the contrary, when I know in my own heart I did not ſpeak them; though I offer not this to Your Lordſhips, to convince your Judgments; And on the other ſide, there is nothing that is true, but I will acknowledge it with all Ingenuity in the world, on the Teſtimony of any own ſingle Witneſs.

I deſire that Mr. *Slingsby*, his Servant, might be asked, whether he was not preſent when I ſpake theſe words; and whether then any offence was taken at me in reſpect of the high manner of my ſpeaking; or whether they were not rather extreamly well ſatisfied.

Now if Your Lordſhips take words in pieces, and not altogether, any man living may be convinced; but taking my words altogether, thongh ſomething might be thonght harſh, yet ſomething gave abundant ſatisfaction.

I am

I am upon a mighty prejudice, in being denied to have my Witneſſes examined upon Oath in theſe things that are not Treaſon. But they be perſons of good credit, and I truſt your Lordſhips will believe them, as much as if they ſpake on Oath, ſince I think none of them would ſay a word to your Lordſhips, which they would not ſwear. *Article 3.*

Mr. *Slingsby* being asked, Whether he was preſent when my Lord of *Strafford* ſpake to the Recorder of *Dublin*, what he ſaid, and what acceptance it received. Mr. *Slingsby* a Witneſs.

He Anſwered, He was then preſent, being on the occaſion of preſenting Sir *Robert Dixton*, the Mayor of *Dublin*; that he cannot remember the particular words, nor deliver them to their Lordſhips, as they were ſpoken by the Lord-Lieutenant: But he remembers particularly the ſcope of the Diſcourſe was to ingratiate His Majeſty's preſent Government to them; That the words were well excepted by ſeveral perſons whom he ſpake with, and took that Effect, that his Lordſhip was thereupon invited to the Mayors Houſe, where divers of the City Congratulated his coming to them.

I ſhall now proceed to the ſecond part of the words, That their Charters were nothing worth, and they bind the King no farther than he pleaſes; and I concive I may ſay ſo ſtill. If their Charters be nothing worth, they do not bind the King, but he may do with them what he pleaſes. In that, I deſire your Lordſhips to call to mind what my Lord of *Corke* ſaid, That *Ireland* was a Conquer'd Nation, and the Kingmight give them what Laws he pleaſed, and that the Charters were Antiquated, and no further good, than it pleaſed His Majeſty to make them. It is likely (I confeſs) I might ſay ſo, and yet not ſay amiſs; for *it is moſt evident and clear, their Charters are void in point of Law, and therefore it is in the King's good will* and pleaſure, Whether he will make them good or no. And that they were void, the King's Council informed me ſo; that they were queſtioned at Council-Board upon it, for divers unlawful Exactions they took, under colour of Charters, for divers By-Laws that they had made, againſt Law, by thoſe Charters, for divers neglects of Duties that they ought to do by thoſe Charters; and generally, for not performing the truſt repoſed in them, by thoſe Charters, with that Intregrity and care they ought to do. And for the truth of it, that many Complaints were made againſt the Mayor and Aldermen at that Board, for neglecting their Duty: I dare Appeal to my Lord of *Corke*. I adding this, That the greateſt part of the Aldermen were Recuſants, and would never be brought to Obey the Order of the Board; but ſtood on there Charters, and would be Maſters; and by that means my great Diſorders continued E. of *Strafford.*

And to prove that upon Examination, they appear to be void in Law. I diſire Sir *George Ratcliffe* may be admitted to ſpeak on what Grounds thoſe Charters were called in, and are now (as I think) depoſited with the Clark of the Council.

Sir *George Ratcliffe* ſtanding charged with High Treaſon, by the Commons of *England*, before your Lordſhips, and of a Conſpiracy with my Lord of *Strafford* and whether it be fit to here one charged with High-Treaſon, to clear another ſo charged, we Appeal to your Lordſhips. Mr. *Maynard.*

That

Article 3.

E. of *Strafford.* That Sir *George Ratcliffe* is charged to be a Conſpirator with me indeed, and, I truth, I muſt confeſs Sir *George Ratcliffe* and my ſelf (under favour) are equally guilty of Treaſon, and I hope we ſhall both juſtifie our ſelves; but I know ſo much of him, that I am not aſhamed to ſay, That I think that Sir *George Ratcliffe* is my Friend, and I wiſh him well, and ſo I think with all other men (I truſt in God) when they hear him. But I conceive Sir *George Ratcliffe* might be heard in theſe Points; if he be examined as a Witneſs againſt me, I deſire he may be examined as a Witneſs for me.

Mr. *Maynard* Sir *George Ratcliffe* is not examined, nor at all ſworn in the Cauſe on our Motion, and admitted, that if they produced him as a Witneſs, they would not deny my Lord of *Strafford* to croſs examine him. The Lord Steward declared the ſenſe of their Lordſhips, That Sir *George Ratcliffe* could not be examined.

E. of *Strafford.* I ſhall readily obey; but yet obſerve, That if it were only matter of Miſdemeanor, he might be examined, though charged. But this is my unhappineſs, to be debarred of my Witneſſes, becauſe I am charged with Treaſon in general, though there be nothing in particular that's near the complexion of Treaſon.

Mr. *Maynard.* We deſire to obſerve, that this Juſtifies a part of our Charge, for the Charter of the Subjects Liberties are, as his Lordſhip confeſſeth, brought to the Council Table, and Judged there, and not to the proper Courts where they ought to be judged; the Council-Table having no Power to declare the Validity or Invalidity of Charters from the King to the Subject.

E. of *Strafford.* I crave Liberty to explain my ſelf, That I ſaid not they were brought to the Council-Table to be judged, but that conſideration might be had, Whether there was ill uſage and extortion practiſed under colour of them or no; whether any thing were done that hindred the growth of that Town, and the good of the People, and the Proteſtant Religion, that it might appear how the buſineſs ſtood in point of State; but to give a judgment upon them in Law, it was never in my thoughts.

Robert Lord *Dillon* being then asked, Whether the Charters of *Dublin* have not been brought before the Council of *Ireland*, there to be conſidered concerning the Validity of them, and whether it did not appear that for divers Occaſions, Exactions, and Tolls, and by-Law, and other abuſes in the exerciſe of theſe Charters; they did not appear to the King's Learned Council, and others learned in the Law, to be void.

He Anſwered, That it was a qneſtion he did not expect; and yet being called, he ſhould faithfully and freely tell his knowledge of it, to his beſt remembrance: That he doth remember very well, that the Charters of *Dublin* hath been brought to the Council-Board, and argued ſtrongly againſt by the King's Learned Council. That there was one particular of 3 *d.* Cuſtom challenged by the City, which endured a very long debate: That it was argued againſt them, That they exerciſed by-Laws, contrary to the Common Law of the Land, and that divers other things were urged againſt them; but he remembers not the particular determination of the Board npon tne Queſtion.

Being

Being asked ſeverally, what time thoſe Charters were ſo brought, and how long after my Lord of *Strafford*'s coming into *Ireland*. *Article* 3.

He Anſwered, that he preciſely remembreth not the time, but he takes it to be five or ſix years ago, ſomething more or leſs, and he thinks about a year or two after my Lord of *Strafford*'s coming, but he remembers not the time, not expecting to be Interrogated in it.

We deſire your Lordſhips to obſerve, That the words was ſpoken before the Charters were brought to the Council-Board. Sir *Jo. Clatworthy.*

It follows not, That becauſe they were queſtioned at Council-Board afterwards, I did not therefore know them to be void, when I ſpoke of them, for they were complained of in Parliament, as great Grievances in the exerciſing of them, and to that purpoſe I deſire my Lord *Dillom* may be heard. E. of *Strafford.*

And being asked what he knew concerning the Charters of *Dublin*, being queſtioned in the Commons Houſe for divers Oppreſſions, unlawful by-Laws and other ill uſage of their Liberties.

He Anſwered, That he was a Member of the firſt Parliament after my Lords coming to in *Ireland* 1634. After this Viſitation of the Mayor ſome half an year, but he knows not the time preciſely. That divers Members of that Houſe did object divers Miſdemeanors, in miſuſing the Priviledges of thoſe Charters. That the particulars were ſeveral By-Laws which they did execute, contrary to the Common Law: Another was, that by the Priviledge of thoſe Charters, they excluded divers of the Tradeſmen that came out of *England* to ſet up Manufactures there, which was conceived a great Grievance to that Kingdom. Another was, that having the Government of that Town, being a Navigable Port, they permitted the Soil to be emptied into the River, without care or regard.

That at the time of the preſentment of the Mayor, my Lord took occaſion to adviſe and advertiſe the Mayor of ſeveral Defects in that Town, and divers of the Commons Houſe of that Parliament are here that were preſent.

Hence obſerve the Reaſon and Grounds of my Exception to theſe Charters, and the Effects of queſtioning them, which were two: Firſt, By this means I am perſwaded (and thereof I beſeech the Honourable Houſe of Commons to take notice, as that which is reputed my greateſt Crime in *Ireland*) there be three Proteſtants in *Dublin*, at this hour, for one that was there when I came over; for the Townſmen did keep all the Trade, and ingroſs all the Manufactures into their own hands; and being Natives, and *Romiſh Catholicks*, did depreſs the *Engliſh*, that ſtrangers out of *England* had little advantage of Trade. And Whatſoever any man may ſay or think on Information from perſons that do not love me, who are Members of neither Houſe (for ſo I deſire to be underſtood, when I ſpeak of perſons unfriendly to me; I complain of nothing that is or ſhall be done me here, but will leave it all, with thankfulneſs to God Almighty, and with that Duty and Reverence to this Houſe, that becomes me.) It will be known hereafter, when I perhaps am in my Grave, that my greateſt fault in *Ireland*, hath been my extream Zeal to bring them to conform with the Church of *England*, which by that means hath provaked a great deal of Diſpleaſure. E. of *Strafford.*

Article 3.

And ſecondly, I obſerve, That this argues no great malice in my heart, nor deſire to oppreſs the King's People, when I ſhall tell your Lordſhips, That to this day to thoſe Charters were never legally queſtioned, but are enjoyed. So far was I from preſſing rigorouſly any thing againſt them, I deſiring nothing but Reformation, and to have them what they ought to be, and to leave them not leſs, but more happy than I found them.

And if ſhould ſerve there again, as I hope I ſhall ſerve only God Almighty, and my Maſter with my Prayers, they ſhould be freed from all exactions and miſuſings of them, tending to the prejudice of the Town, the King's Service, and the Service of Almighty God.

And ſo I hope I have made a clear Anſwer to ſo much as was charged, to free my ſelf from guilt of Treaſon, reſerving to my ſelf the advantage of having my Council heard, in proper time, to the matter of Treaſon in point of Law, according to the Liberty your Lordſhips have afforded me.

Next I ſhall proceed to that which is proved, and no way charged, which I forbore to ſpeak to the day before, as holding it an impertinent expence of time to your Lordſhips, and a ſpending of my own ſpirits, which God knows, are weak and infirm indeed. If I were permitted to ſpeak this morning to all the things extrajudicially formerly offered, I ſhould give a free and clear Anſwer. But ſuffering by my Ignorance and ſilence then, I now deſire leave to Anſwer thoſe things that came *De Novo*, and that by three Witneſſes, touching words ſpoken at another time to both Houſes of Parliament.

I confeſs it to be true, that the ſecond day of the laſt Parliament, but this that is now ſitting, I had the Honour to ſit as His Majeſties Deputy, and it was the greateſt Honour that ever I received; and I ſhould be loath to ſay any thing, ſitting in that Place that ſhould not fully comply with the Goodneſs, Clemency, and Juſtice of His Majeſty, or ſhould miſ-repreſent him in any kind to his People in another ſenſe, or to other purpoſe than his own Great and Princely Vertues do Merit and Deſerve.

And that all I ſaid at that time tended to that purpoſe, to ſhew and ſet forth to them the excellent Goodneſs of His Majeſty, and the Graciouſneſs of His Government. Therefore if I ſhould ſay any thing to the purpoſe, as it is offered, I ſhould go much againſt the purpoſe for which I intended my Diſcourſe. For me to have ſaid openly there, in the King's Chair, that they were a Conquer'd Nation and muſt expect Laws from Him, as from a Conqueror, when I knew it moſt falſe; and expected from His Majeſty, that He would Govern them by the ſame righteous Rules of Juſtice and Honour (as his Predeceſſors had before him) I had been much too blame, and it had been againſt the drift of my Diſcourſe. And I muſt ſay, and will ſay, to the Death, I never ſpake ſuch words, That they muſt expect Laws from him as from a Conqueror. I know very well how it is proved, and what my own affirmation doth *in foro Judicii*; but how it may work *in foro Conſcientiæ*, I truſt I have ſo much credit left in the World, as to be known to be a man of truth, and not uſually to ſpeak untruths. And I take the heavenly God to Witneſs, that I never ſpake them. I remember the words, and the occaſion by a good token, without which I ſhould not have remembred them; my Friends deſiring a Copy of my Speech, which Copy is in *Ireland*; and were it here, would ſatisfie every man. It was to incline them to take into conſideration the great Debt that lay on the Crown, being near 100000 *l.* the ſhortneſs of the Revenue, which was then ſhort of the yearly Charge 24000 *l.* though the firſt day it was ſtood upon,

upon, and would have been coloured over, as if there had been no ſuch thing. I was to move thereunto a ſupply to pay the Debt, and to improve the Revenue to ſuch a height as might anſwer the Charge of the Kingdom; that to induce this, I told them the Kingdom of *England* had expended great and vaſt Sums of Money, and had iſſued a great deal of Noble blood for the reducing of them to Obedience, and in that happy State wherein they then lived. That they muſt not think the Kingdom of *England* muſt always bear the Charge of the Crown, but they muſt ſo fit the buſineſs, that the Kingdom may bear its own Charge; For, ſaid I, and theſe are the words, (I take God Almighty to Witneſs) and no other. If the Kingdom of *England* ſhould ſtill be put to their Charges, and the whole Expence ſhould ſtill reſt on the Conqueror, you might very well think you are ſo dealt withall, as never any other Conquer'd Nation had been. That on theſe words my Lord of *Ormond* came to me, and told me, That the words I had ſpoken were not well taken; For that I had ſaid, The *Iriſh* are a Conquer'd Nation, and that is not well. I anſwered his Lordſhip, Truly, my Lord, you are a Conquer'd Nation, but you ſee how I ſpeak it, and no otherwiſe. *Article.* 3.

But this I am not Charged with, and offer it only to keep and preſerve me in a good Opinion, as much as I can of both Houſes of Parliament, which I deſire of all things under Heaven, next the Favour of Almighty God and his Gracious Majeſty.

He then proceeded to examine Witneſſes: And firſt *Robert* Lord *Dillom* being asked, Whether he was preſent when he ſpake theſe words to both Houſes of Parliament, and what they were?

We deſire to put your Lordſhips in mind that there were two times when my Lord ſpake ſuch words; one, when he ſpake to both Houſes of Parliament at the Publick Speech now mentioned; the other, upon delivering a Petition by the Houſe of Commons: That the words which the Commons Charge, were the laſt mentioned by me, not the firſt, and that was deſired to be obſerved. Mr. *Pym.*

The Queſtion being repeated.

The Lord *Dillom* Anſwered, That he ſerved as a Member of the Commons Houſe that Parliament, and in reſpect of the Honour he had to be of the King's Council, and the Son of a Peer of the Realm, he ſtood under the Cloath of State, and was preſent when my Lord made his Speech to both Houſes; for that paſſage of the Conqueſt, ſome touch there was of it; and he hath heard my Lord of *Ormond* ſpeak in particular of it: For the other words, That they ſhould expect Laws as from a Conqueror, he took God to witneſs, he did not remember them.

Being asked whether he remembers them to be ſpoken at any other time: He Anſwered, that on his Soul he doth not.

Sir *Adam Loftus* being asked to the ſame purpoſe.

He Anſwered, That he was the firſt and the laſt day at the Parliament, that he doth not well remember the middle day, and he cannot burden his memory with any ſuch words ſpoken that he heard either then, or at any other time.

Sir *Robert King* was called, and asked to the ſame purpoſe.

He Anſwered, That he thinks he was preſent that day, but not within hearing, and he never heard the words any other time.

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Lord *Renula* being asked, Whether then, or at any time he heard my Lord of *Strafford* ſay, They muſt expect Laws from the King, as from a Conqueror.

He Anſwered, That he was then in the Houſe, and remembers the words in the firſt place, That *Ireland*, was a Conquered Nation; that for the words in the ſecond Place, ſomething was ſpoken, but how far he cannot witneſs.

Sir *George Wentworth* queſtioned on the ſame Point.

Anſwered, That he ſate under the Chair of State at that time, and remembers not that my Lord ever ſpake theſe words, That the King might do with them as he pleaſed. That it pleaſed my Lord Lieutenant to ſend him into *England* at that time to attend His Majeſty, with the Succeſs of that Parliament, and that he brought the Speech with him, and can confidently affirm, there was no ſuch thing in the Speech; and the Speech he did deliver to ſome Privy-Councellor, and added, That he never heard my Lord publickly or privately ſay thoſe words, They muſt expect Laws from the King as from a Conpueror.

Mr. *Pym.*

We deſire to know, Whether the Witneſs was returned out of *England* when this Remonſtrance was delivered. For the Commons Charge it thus, That the Houſe of Commons delivered a Petition, to have the Laws executed according to the Inſtructions, upon which the words were ſpoken, and we believe Sir *George Wentworth* was not come back, and then it was impoſſible he ſhould hear him, for it was after the Parliament had ſate, and ſome proceedings had.

E. of *Strafford.*

I obſerve, How it is in ſome of the Witneſſes, for my Lord *Gorminſtone* fixed it on the firſt beginning of the Parliament.

Mr. *Pym's.* Reply.

He ſpake it to the occaſion of the Petition, but the diſtinct time he doth not remember.

Sir *George Wentworth* being asked touching the time of his going into *England.*

He deſired to know what time the Petition was delivered; but he went over ſome few days after the Subſidies were granted.

Lord *Robert Digby* being asked, Whether at the Parliament at *Dublin*, or any other time, he ever heard my Lord of *Strafford* ſpeak thoſe words.

He Anſwered, that he never did; that he doth not know whether he was preſent at that time or no; that he did diligently wait, but doth not remember the words, nor occaſion, but he thinks he was not preſent.

Mr. *Maynard's* Reply.

Your Lordſhips have heard my Lord of *Strafford's* Defence with much patience, That he hath ſaid nothing that takes off the Charge from ſome things that aggravate it.

That he would anſwer the Particulars, as his Lordſhip had propounded them. And firſt he obſerved, That his Lordſhip denies not the words, Charged, which makes greater way for Proof of them.

He informes of the ill Fortune of other Governors, that one was Attainted, and the Informations afterwards retracted, that my Lord of *Faulkland* was complained of, yet a Noble and good Governor, againſt whom, or any Deputy, we can ſay nothing: But what is this for my Lord *Strafford* to ſay, Others were queſtioned, therefore he is Innocent.

Theſe

Theſe were complaints of particular men, This againſt my Lord of *Strafford*, is the complaint of the Commons of all *England*. *Article* 3.

It is ſaid, here is no Treaſon in this Article, no Argument of Treaſon; but the Commons never preſſed theſe words ſingly and dividedly, to be Treaſon; but take all together they diſcover that Diſpoſition, that Counſel, that Reſolution that my Lord of *Strafford* had taken on him, the ruine and ſubverſion of the Common Law, in both Kingdoms.

It is ſaid, an Anſwer is put in, and no Replication. It is true, in other Courts, if you go on Bill and Anſwer, the Anſwer is taken *pro Confeſſo*; but the Commons deſire not to bind up my Lord of *Strafford* with Formalities; but by the ſubſtance of their Charge, they have averred their Charge, which is as much as a denial of his Anſwer.

To there being another Government in *Ireland* than in *England*, my Lord himſelf ſpoke of it by himſelf; but he thinks it will not be material to this purpoſe; for whatſoever it is, ſome Government there is: But the Speech of my Lord tends to take away all Laws; for they muſt expect Laws as from a Conqueror, in that Limitation.

For his referring it to the time, taking it in the ſenſe, that the then Conqueror might do what he pleaſed, that's true, and juſtifiable: But that is to ſuppoſe the words otherwiſe than they are; being ſpoken, not of the Kings that were before, but of His Majeſty that now is.

My Lord would make an Argument, his words were well accepted, becauſe Mr. *Slingsby* heard nothing to the contrary; the words had much Acrimony and Sharpneſs, and we dare not believe the Mayor of *Dublin* durſt tell my Lord of *Strafford* ſo, or forbear any Complement to him, though he had been diſpleaſed with him. But if that be material, the Witneſſes that have proved the words, will tell your Lordſhips, it was reſented with a great deal of Grief and Sorrow in all the hearers.

His Lordſhip juſtifies what was ſpoken of the Charters, on theſe grounds, Firſt, That the Witneſs ſaid they were Antiquated Charters, and therefore did not bind; whereas it was a ſcornful Epithite, their Antiquated, and Worm-eaten Charters, did not bind.

It is ſaid, they were void through negligences queſtioned at Council-Table, complained of in Parliament. But they muſt take the words to pieces, not altogether. Had he ſpoken of the Charters alone, that they were void Charters, it were no crime, no indiſcretion. But take it with the occaſion and connextion, it admits of no ſuch mittigation, or interpretation. He tells them, they are a Conquered Nation, and they muſt expect Laws as from a Conqueror: And they are a conquered Nation, and their Charters are no further good than the King pleaſes.

It is ſaid, It is ſtrict to anſwer preſently what may be objected; and the Examination are extrajudicial; we doubt not but Your Lordſhips will juſtifie our Proceedings, nor is there any ſtrictneſs in them; for if a man be queſtioned of a Crime, and ſeveral Evidences be brought to make up this Crime, ſome concurrent, ſome precedent, they will be allowed of in other Courts; It being never uſed, to ſet forth in a Charge all Circumſtances of Proof, The main is produced, and this is an Evidence to prove that, and it is within the Charge; for there is a Charge, that he Corrupts the Laws and Government.

Then my Lord produces divers Witneſſes, who ſpeak in a different ſenſe, Sir *Robert King* heard nothing; another, that he remembers nothing; and if he remembers nothing, it may as be well ſaid of the reſt That there might be ſomething they did not hear or remember; for they

ſpeak

Article 3. ſpeak no more, but they did not remember; There may be ſomething they forgot, as well as another forget all.

My Lord *Ranulagh* ſays, He remembers the firſt words, and ſomething as ſpoken of the Second; but he cannot tell how far: So that there is rather a doubt, that ſomething was ſpoken to that purpoſe, than otherwiſe. The Lord *Digby* was not preſent, Sir *George Wentworth* remembers not the words; he hath a Copy of the Speech, and is confident the words were not ſpoken. But they were not ſpoken in the firſt Speech, whereof there was a Copy, when the Petition for the Laws was delivered.

And this is an Aggravation againſt my Lord of *Strafford*, that by his own ſhewing there was an Exception taken, when he ſpoke in a milder ſenſe, and to advance His Majeſties Government, it had an ill impreſſion, and was taken notice of, and the Exception delivered to himſelf.

Now if after Exception taken to a Speech delivered in Parliament, cloathed with ſo much mildneſs, he in the ſame Parliament, as ſoon as Subſidies are granted, ſhall tell them, they are a conquer'd Nation, and ſhall not have Graces, but ſuch Laws as the King will give them: This puts the Offence in higher terms than before; ſo far are they from mittigation of the Offence.

We deſire Witneſſes may be heard cocerning the circumſtance of time.

Mr. *Fitzgarret* a Witneſs.

Mr. *Fitzgarret* produced, and Sworn.

Was asked whether he knew of a Petition delivered to the Earl of *Strafford* by the Commons, concerning the Laws; and how in time it followed the publick Speech at the beginning of the Parliament, and what Anſwer was given to it.

He Anſwered, That he was then a Member of the Commons Houſe, and preſent when the Petition was delivered: but after the Houſe of Commons had given the King ſix Subſidies, the Houſe of Commons entred into a conſideration, of Petitioning for ſuch things as were neceſſary and expedient for the Common-wealth, as they thought; this Petition was preferred to the Lord Deputy, a good ſpace of time after the Subſidies were granted, and Advertiſement ſent to *England*, of the good ſervice done in obtaining thoſe Subſidies from the Houſe of Commons, That he remembers not any part of the Anſwer given; There was an Anſwer given in Writing, either at Council-Table, or in full Parliament, from the Houſe of Lords; but that he ſpake only to the point of time.

E. of *Strafford*.

My Lord of *Strafford* did here affirm it to be moſt certainly true, That the Petition concerning the things Mr. *Fitzgarret* mentions, was delivered at Council-Board, and not in Parliament; and deſiring Mr. *Fitzgarrets* further explanation of himſelf:

He Anſwered, That he conceives there were two Petitions; one, as he thinks, concerning the performance of the Inſtructions of 1628. whereunto an Anſwer might be given at Council-Board; and he believes it was ſubſcribed by many of the Council. There was another Petition of Grievances, ſeeking redreſs of them; and to whether of theſe his Lordſhip gave an Anſwer in Parliament, he remembers not; but believes there was an Anſwer made to both, or one of them, in full Parliament.

The

Article 3.

Lord *Germinſtone* a Witneſs.

The Lord *Germinſtone* being demanded at what time, and on what occaſion my Lord of *Strafford* ſpoke the words, he was examined on before, in the Parliament at *Dublin*.

He Anſwered, A Petition was delivered to my Lord of *Strafford*, and he ſpake to the Houſe, wherein he ſpake the words he had formerly related, That they muſt expect Laws as from a Conqueror; and that the Inſtructions publiſhed for the ſetling of that Government, were procured by a company of narrow hearted Commiſſioners; That he did not then remember the certain time; but he is ſure it was in Parliament; and ſo reſented, that almoſt all took notice of it; when moſt part were *Egnliſh and Britiſh* Extractions, and very few *Iriſh*.

Lord *Killmallock* a Witneſs.

The Lord *Killmallock* being demanded to the ſame purpoſe,

Anſwered, That he conceived the occaſion was, a delivery of a Petition to his Lordſhip. It is true, it was not delivered in Parliament, nor were the words ſpoken at the Council-Table where the Petition was delivered: But he conceives, it was on occaſion of delivering that Petition, that his Lordſhip ſpeaks: For after thePetition was delivered, three or four days after, his Lordſhip came to the Parliament Houſe, he called both Houſes before him, and there delivered theſe words, That *Ireland* was a Conquered Nation, and therefore muſt expect Laws as from a Conqueror. Adding further, That the Book of Inſtructions, meaning the Book Printed in King *James* His Reign, for the orderly Government of the Courts of Juſtice, was contrived and procured by a Company of narrow hearted Commiſſioners, who knew not what belonged to Government. The words, he ſaid, he remembred very perfectly, as having great miſery on his heart in the ſpeaking: And whereas it is ſaid, none did take notice of them; They did, but they durſt not, it wrought inwardly; and had they ſpoken of it, they expected no redreſs, but a greater addition of calamity to them

Mr. *Maynard*

We ſhall now proceed, and obſerve, That this Article touching the Laws of *Ireland*, gives the ground-work of what follows in the ſubſequent Articles concerning *Ireland*.

And firſt, We deſire Your Lordſhips to take into remembrance, That though *Ireland* differ in ſome particular Statutes from *England*, yet they enjoy the ſame Common Law, without any difference.

That by the Statute 28 *H.* 6. in *Ireland*, It is Enacted, That ever Cauſe ſhall be remitted to its proper Court, it is true, the King hath this Prerogative, not to be tied to ſue in the *Kings-Bench*; but may ſue in any Courts of Juſtice, for matters Triable in the *Common-Pleas*, or *Chancery*, or *Exchequer*; all Courts are open to him, Wherever he will have his Cauſe judged; but with the Subject, the proper Cauſe muſt go to the proper Court, and according to this, the exerciſe and uſe is continued in that Kingdom.

Some Incroachments being made, King *James*, of bleſſed memory, took conſideration of it, he appointed Commiſſioners, and Inſtructions were Printed in purſuance of this: A Noble Earl now preſent, Juſtice *Jones*, Sergeant *Crew*, and divers others, were imployed in that Service. Theſe Inſtructions, as they remit the Cauſes of the proper Courts, ſo they declare, that it had crept in at the Council-Table in latter times, to take Oaths;

Article 3. Oaths; but direct, that it ſhall be forborn for matters of Intereſt and Complaint between party and party, and matters of Title.

And it ſtays not here; but a Proclamation is iſſued to the ſame effect.

This Statute, theſe Inſtructions, and this Proclamation, we deſire may be read.

According the Statute was read, whereby it was ordained to the Governour of the Land, or other Officer for the time being, He that accuſes ſhall find ſufficient ſureties for the damage of him that is accuſed; and if it ſhall be adjudged that the Suggeſtion or Accuſation, is not true, *&c.* And alſo, that he that is Arreſted, may go by Surety or Bail, till the matter be determined.

And if it be matter of Treaſon or Felony, to be remitted to the *Kings-Bench*; if Conſcience, to the *Chancery*; if Franchiſe, to the Seneſchal of the Liberty; if for Debt, to the *Common-Pleas*, &c. ſaving the King's Prerogative.

Then part of the Inſtructions were read, publiſhed 1622. wherein it is Ordered, That the Council-Table ſhall keep it ſelf within its proper bounds.

Amongſt which, the Patents of Plantations, and the Offices on which the Grants are founded, are to be handled as matters of State, and to be determined by the Lord Deputy and Council publickly, but Titles between party and party, are to be left to the ordinary courſe of Law, and neither Lord-Deputy, Governour, nor Council-Table, hereafter to intermeddle, or trouble themſelves with ordinary buſineſſes, within Cognizance of ordinary Courts, nor meddle with poſſeſſion of Land, nor make or uſe, private Orders, Hearings, or References concerning ſuch matters, nor grant Injunctions, nor Orders for ſtay of Suits at Common Law, Cauſes recommended from the Council of *England*, and ſpiritual Cauſes concerning the Church, excepted.

Then the Proclamation was read, dated *November* 7, 1625, whereby it is commanded, That the Deputy and Council-Chamber in *Ireland* then and from time to come, ſhall not entertain, or take conſideration of any private Cauſe or Cauſes, or Controvercies between party and party, concerning their private and particular Eſtates, nor any Cauſe or Controverſie of that Board, which are not of that nature that do properly concern matter of State; But that all Cauſes and Controverſies of that nature, moved or depending between party and party, concerning private and particular Intereſts, be proceeded in in the ordinary Courts of that Kingdom reſpectively, to whom the Connizanceof theſe Cauſes and Controverſies doth belong, *&c.*

For that Objection from the Oppinion of my Lord of *Cook* in *Calvins* Caſe, if it were an Opinion to the contrary in an Argument, it is no binding Authority; But that Opinion is nothing at all againſt what hath been ſaid, for it is expreſs, That *Ireland* did retain the ſame Common Law with *England*. It is true, *Ireland* hath Statutes and Cuſtoms particularly retained; and ſo there be divers particular Cuſtoms in *England*, that differ from

from the Common Law, yet are approved and allowed in it; as in *Wales*, and the Cuſtom of *Gavel-kind*, and the Common Law, which is the general Government, is the ſame. If there be any Statute that gives my Lord of *Strafford*, as Governour alone, power to take Cognizance of meerly private Cauſes, it is ſomething to the purpoſe to ſay, there is a particular Statute; but till that be ſhewed, he hath in this, erected an Arbitrary Power. *Article* 3.

And ſo he concluded the Reply, and the Third Article.

THE Fourth Article.

The Charge.

THat Richard Earl of Corke, having ſued out Proceſs in courſe of Law, for recovery of his Poſſeſſions, from which he was put, by colour of an Order made by the ſaid Earl of Strafford, and the Council-Table of the ſaid Realm of Ireland, upon a Paper Petition, without Legal proceeding, did the 20th day of February, in the 11th year of His now Majeſties Reign, threaten the ſaid Earl, (being then a Peer of the ſaid Realm) to impriſon him, unleſs he would ſurceaſe his Suit, and ſaid, That he would have neither Law nor Lawyers, diſpute or queſtion his Orders. And the 20th day of March in the ſaid 11th year, the ſaid Earl of Strafford, ſpeaking of an Order of the ſaid Council-Table of that Realm, made in the time of King James, which concerned a Leaſe which the ſaid Earl of Corke claimed in certain Rectories or Tythes, which the ſaid Earl of Corke alledged to be of no force, ſaid, that he would make the ſaid Earl, and all Ireland know, that ſo long as he had the Government there, any Act of State there made, or to be made, ſhould be as binding to the Subjects of that Kingdom, as an Act of Parliament; and did queſtion the ſaid Earl of Corke in the Caſtle-Chamber there, upon pretence of breach of the ſaid Order of Council-Table; and did ſundry other times, and upon ſundry other occaſions, by his Words and Speeches, Arrogate to himſelf a Power above the Fundamental Laws, and Eſtabliſhed Government of that Kingdom; and ſcorned the ſaid Laws and Eſtabliſhed Government. Article 4.

ONE of the Managers opened the 4*th* Article, and ſaid, The former Articles ſhew my Lord of *Strafford's* Words, this his Actions. Mr. *Glyn.*

This Article concerns my Lord of *Corke's* being diſſeized of an Im-

Article 4. propriate Rectory, upon a Paper Petition to my Lord of *Strafford*, and referred to the Council-Table, the Earl of *Strafford* ſaying, upon the queſtion of the Proceedings thereupon, That neither Law nor Lawyers, ſhould queſtion or diſpute his Orders; an Order of Council-Board in King *James*'s time, enjoyning, That no Parſon, Patron, or Ordinary, ſhould make a Leaſe for longer time, than the life of the Incumbent, was made uſe of as a ground to diſpoſſeſs the Earle of *Corke*.

Mr. *Glyn*. In the firſt place, We deſire to open the Proceedings at Council-Table before my Lord of *Strafford*'s time, (*viz.*) That in no Caſe concerning Land, no Decree hath been there made, to bind up the Party for remedy at Law.

Lord *Ranulagh* a Witneſs. The Lord *Ranulagh* being Interrogated, Whether by the courſe of Proceedings at Council-Table, the Deputy and Council have determined Title of Land and Poſſeſſion, and interrupted the parties to proceed at Law.

He Anſwered, That he hath obſerved the courſe of the Board for 22 years; and the courſe was, That if Title of Land, between party and party were in debate, It was commonly diſmiſſed from the Board, with a leading Order, to be Tried by courſe of Common Law.

Being asked, Whether a Deputy alone hath determined private Intereſt?

He anſwered, That he cannot poſitively ſay, whether it were done privately; but to the beſt of his remembrance, he knows not that ever any Deputy determined any matter of private Intereſt, but brought it to the Board, though by reference, or private proceeding, it might have proceded bcefore it came to the Board.

E. of *Strafford*. My Lord of *Strafford* deſired he might be asked, Whether he ever knew, that any matter of Inheritance was ever by himſelf and the Council determined, whilſt he was Governour there, that was barely Title of Land, and nothing elſe?

Witneſs. He Anſwered, And deſired to explain himſelf concerning the former, That Cauſes of the Church, and matters of Plantations, were reſolved in former Deputies times, to be diſpatched at the Board. And for the latter queſtion, he never knew matter of Title determined at the Board, but in Cauſes of the Church, and Plantations.

E. of *Strafford*. My Lord of *Strafford* deſired he might be asked, Whether as Preſident of *Connaught*, he did not familiarly, on Paper Petitions, rule all things in the ſame nature, as the Deputy on Petitions to him?

The

Article 4.

The Fifth day.

Friday, March 26, 1641.

After conſideration of this matter by their Lordſhips, it was Reſolved in the Upper-houſe, That my Lord *Ranulagh* ought not to be examined on that Point, it tending to an Accuſation of himſelf.

E. of *Corke* a Witneſs.

The Earl of *Corke* being Sworn, and queſtioned touching my Lord of *Strafford*'s words to him, upon his excepting againſt the Orders made upon the Petition touching the ſaid Rectory.

His Lordſhip Anſwered, That he had been in Poſſeſſion, as Tenant of the Crown thirty five years, of a Rectory and certain Tythes in the County of *Tiperany*, for which he paid a yearly Rent; and having enjoyed it ſo long, my Lord preſented to it *Arthur Gwyn*, that had been his Coach-mans Groom. That when he heard of it, he went to my Lord privately, and told his Lordſhip, that he was his Majeſty's Farmer of thoſe Tythes, and paid a Rent; and deſired he might not be ſued for them in the Council-Chamber: but if a Suit muſt be commenced, that it might be in the proper Court, the Exchequer. That my Lord told him, he ſhould Anſwer it there: That he did ſo, and my Lord ordered it againſt him; That a Commiſſion went down, and Examinations were taken: And after my Lord had ordered it againſt him, an Order of courſe was ſet down that *Gwyn* ſhould have them till I recovered them by courſe of Law. That thereupon, I brought an Action againſt him, and his Tenants, who were Arreſted, and came to *Dublin*; and then went to my Lord, and Dr. *Bramhill*, Biſhop of *Derry*. That thereupon I was ſent for before my Lord Lieutenant that then was; and my Lord Lieutenant told me, Sir, You have taken out Writs againſt *Gwyn*, to whom I ordered the Tythes of the Rectory. I confeſt I had, and deſired to know why he asked me ſo; adding, that I am ſure your Lordſhip will not take away my Poſſeſſion, by a Paper Bill, without Trial. That my Lord of *Strafford* anſwered, call in your Writs, or if you will not, I will clap you in the Caſtle; for I tell you, I will not have my Orders diſputed by Law, nor Lawyers.

Gwyn was a poor Man, and if he ſhould get the Rents of the Impropriation into his hands, I could not get them again: And therefore I deſired ſecurity, that if by courſe of Law I ſhould recover it, I might have it again; That my Lord of *Strafford* thereupon ſaid, It was very fit and juſt; but the Order being brought unto me, I ſaid there was no ſuch thing in the Order.

Being deſired by the Earl of *Strafford* to repeat the laſt over again,

I ſay, that I told the Lieutenant, that I did hold the Council-Chamber could not hold Plea of this, and thereupon cited 28 *H.* 6. the Book of Orders, the Proclamation. Then I moved his Lordſhip, that in regard *Gwyn* was a poor Man, and not anſwerable, and might get the Rents, being

Article 4.

near 100 marks a year, he might give ſecurity for the Rents, if I ſhould recover them by courſe of Law; That my Lord of *Strafford* thought it juſt it ſhould be ſo entred in the Order.

And being asked how that came to be left out?

He Anſwered, That Sir *Paul Davis*, the Clerk of the Council, told him, my Lord of *Strafford* found fault with it, and ſtruck it out with his own hand.

Being asked, What words he heard from my Lord of *Strafford*, concerning the ſaid Order at Council-Board, in King *James*'s time:

He Anſwered, That there was a Parſonage in the County of *Kerry*, in his Preſentment, and it fell void; the Dean, and ſome others, commended one *Atkinſon* to be his Vicar. That on their Commendation, not knowing him himſelf, he preſented him, without any conſideration. That *Atkinſon* afterwards fell into decay, and was Impriſoned; and the Priſon being very loathſome, the Biſhop wrote unto him, this Deponent, and ſent him a Leaſe, under the Hand and Seal of him the ſaid Biſhop, and the Incumbent, with a Label for his the Deponents hand, and deſired him to ſeal it for 40 *s.* a year to another, that *Atkinſon* might pay his Debts, and ſtock himſelf with Cattel; That he the Deponent, refuſed it, though brought 50 miles from his Houſe, fearing it might be prejudicial to the next Clerk. That the Biſhop ſent *Atkinſon*'s Wife back over the Mountains with his Letter, and the Leaſe; and he the Earl of *Cork*, did ſign it then; for, ſeeing the miſery of the poor Woman, and her Children, he thought it a work of Charity; and it continued ſo till my Lord of *Strafford* came to the Government.

That then he had a Bill preferred againſt him in the *Star-Chamber*, for breaking an Act of State, That none ſhould make a Leaſe for longer than the Incumbent's life, and deſired that the Bill ſhould be read, in all the Proceedings of it; That thereupon he told the Earl of *Strafford*, it was a work of Charity, and he never heard of ſuch an Act of State, being not publiſhed, and made in King *James*'s time, and in the Lord *Grandiſon*'s Government, who are both dead: And therefore he conceived, there was no cauſe to charge, or proſecute him for it, being but an Act of State. That my Lord of *Strafford* Anſwered, I tell you, my Lord, as Great as you are, I will make you, and all the Subjects of *Ireland* know, That any Act of State made, or to be made, ſhall be as binding to you, and the Subjects of *Ireland*, during my Government, as an Act of Parliament.

Being asked on my Lord of *Strafford*'s motion, whether the Order made in the Caſe of *Gwyn*, was not made by the major part of the Votes of the Board?

He Anſwered, That he did ſay that it was Voted at the Council-Table, but he knows not whether it were done by the major part; and afterwards (with a lower voice) His Lordſhip added, that he thinks it was never Voted.

John Waldron a Witneſs.

John Waldron Sworn; was examined touching the words my Lord of *Strafford* was charged to ſay, touching an Act of State, being equal to an Act of Parliament; and the occaſion;

He anſwered, It was his chance to be at Council-Table, when a Cauſe, depending between the Merchants of *Galloway*, and ſome others, that proſecuted the buſineſs in behalf of the Church, about a Leaſe made by the Dean of *Derry*; which was debated at the Council-Board. And there

was

was one Mr. *Martin* of Council for the Merchants, and he preſſing hard for his Clients; It pleaſed my Lord to think he had over-ſhot himſelf, or was too forward; and asked what he had to ſay, that he preſt that Cauſe ſo hard; That Mr. *Martin* Anſwered him, He had an Act of Parliament, or Statute, or to that purpoſe. *Articls 4.*

That my Lord of *Strafford* Replied again, Sir, I will make you know, That an Act of this Board ſhall be as good as any Act, or Statute, or words to that effect.

John Kay, after ſome Exceptions taken by the Earl of *Strafford* againſt him, as no fit Witneſs in reſpect of his proſecuting a Suit againſt his Lordſhip, for the Lady *Hibbotts*, which was Over-ruled by their Lordſhips, was Sworn, and being asked touching the ſaid words to be ſpoken by the Earl of *Strafford*, and the occaſion and the time.

He Anſwered, That he was preſent at Council-Table by chance, when there was a Cauſe, wherein Mr. *Martin* pleading for his Clients: My Lord-Deputy then asked him, What made him ſo earneſt for it; He ſaid, He had an Act of Parliament, or Statute, to juſtifie his Cauſe. Hereupon my Lord-Deputy Anſwered, He ſhould know, that as long as Himſelf ſate in that Place, An Act of State ſhould be as ſtrong as an Act of Parliament, or words to that effect.

Being asked of the time.

He Anſwered, He doth not remember the time, but it was three years and upwards. It was before *July* 1637, but the Day and Year he remembers not; but it was in the Caſe where Mr. *Martin* was Council.

My Lord *Corke* being asked about the time, he ſaid, It was in 1635, about *February*.

Mr. *Waldron* being asked, Whether it was in Church-Cauſe. Anſwered, My Lord-Deputy made an Offer, That if they would take a Leaſe for 21 years, at full value, they ſhould have it. But if they would ſtand on the Trial of the Leaſe, they muſt take the adventure.

And Mr. *Hoy* being asked, Whether it was a Church-Cauſe.

He Anſwered, He conceived the Church was Intereſted in it.

Lord *Killmallock* asked, Whether he heard my Lord *Strafford* ſay, An Act of Council ſhould be as Valid as an Act of Parliament, when, on what occaſion, and to what ſcope.

He Anſwered, That he was at Council-Table ſome four or five years ago, and there did hear my Lord of *Strafford* ſay to one of the Council (he cannot ſay it was Mr. *Martin*) He would have him know, as long as himſelf was Governour, An Act of State ſhould be as binding as an Act of Parliament; on what occaſion he cannot ſay. He further ſaid, That in the 10*th* year of the King, in the Parliament held in *Ireland*, he heard Sir *George Ratcliffe* (my Lord of *Strafford*'s Eccho) in that Houſe, ſay, On occaſion of a Bill that was caſt out in that Houſe, making it Felony for any to have Powder without Licence. It is all one, he would have an Act of State for it, which ſhould be as binding as an Act of Parliament.

Sir *Pierce Crosby* was asked, Whether he heard my Lord of *Strafford* at another time ſay, An Act of Council ſhould be as valid as an Act of Parliament, when, on what occaſion, to what intent.

He Anſwered, That he doth very well remember the words, the time not preciſely; but he was ſure it was ſoon after my Lord's coming into *Ireland*, and before the Parliament, and was the cauſe of the firſt Exception againſt him the ſaid Sir *Pierce Crosby*, for he reaſoned it with his Lord-

Article 4. Lordſhip, being at his own Table at Dinner, there being then preſent, and ſitting next to him, a Member of this Honourable Houſe, my Lord *Caſtlehaven*. There were likewiſe my Lord *Oſmond*, and ſeveral others of the Council of *Ireland*. The words were theſe, That if he lived, He would make an Act of State to be of equal Power with an Act of Parliament. That he, the Deponent, thought his Lordſhip ſpoke it merrily, and anſwered him in the ſame kind, ſaying, My Lord, when you go about to do this, I will believe ſome body will riſe, as an *Engliſh* Gentleman did in *England*, and deſire a Clauſe of Exception, that it may not reach to himſelf, his Kindred and Friends. That my Lord of *Strafford* looked on him very earneſtly, and ſaid, He would take him, whoſoever he was, and lay him by the heels.

That this was in Parliament time: And he the Deponent would fain have qualified it; but Parliament, or not Parliament (ſays my Lord) *Ireland* is a Conquer'd Nation, and the Conqueror ſhould give the Law. That he the ſaid *Pierce Crosby* Replyed, My Lord, then, I beſeech you, give me leave, I am one of thoſe that muſt uphold an Act of State, by all lawful ways, having the Honour to be a Member of the Government, though unworthy. What will be alledged on the other part? They will ſay an Act of Parliament attaints and reſtores Blood, and doth many things an Act of State cannot reach to, for it is confined within the limits of the Government. That my Lord having not to Reply to this, roſe in ſome choller; and told him, the Deponent, of ſomething elſe he conceived he the Deponent had done amiſs at Council-Board on a Statute that was in debate.

And ſo the Manager concluded the Article with thus much more; The Article, in the concluſion of it, charges him with ſcorning the Government and Laws. And it was deſired their Lordſhips would take notice of what is proved out of theſe words, and the concurrent proof Yeſterday.

The Earl of Strafford *begins his Defence.*

E. of *Strafford*. Firſt, I muſt ſtand upon the truth of my Anſwer, which muſt be good, till it be denied, ſo far as goes to matter of Miſdemeanor.

I have not had time to examine Witneſſes, having not liberty till *Friday* laſt, which I urge by way of excuſe, if my Anſwers give not full ſatisfaction.

Here is an Order of the Houſe of Commons there, whereby your Lordſhips may perceive how unlikely I am to have any thing from *Ireland* that may work to my Juſtification, which was read, and bears Date 25 *February*, 1640.

Authorizing thoſe under-named to go aboard any Ships, and ſeize, ſearch, and break up all Trunks, Cheſt, and Cabins aboard. To ſeize on all Silver and Gold, except ſmall Sums; and all Debts, Evidences, and Writings as they ſhall think fit, of him the ſaid Earl of *Strafford*.

This his Lordſhip conceived to be a great Violation of the Peerage of the Kingdom.

For making good of his Anſwer, his Lordſhip Alledged:

That the Council-Board of *Ireland* is a Court of Record, which differs much from the Council-Board of *England*; and that they proceed there by Bill, Anſwer, Examination, Publication, and all the formal courſes of legal Proceedings.

That

That my care to preſerve the Authority of the Deputy and Council, is not a Subverſion of the Laws: Only it directs it, and puts the execution of the Law another way. *Article* 4.

That for Reaſons of State, it muſt be preſerved, being the place of Reſort for Protection and Defence of the *Engliſh* Planters, and Proteſtant Clergy.

I ſhall produce and acknowledge the Inſtructions made 22 *Jac.* and I ſhall read part that bounds the Council-Board particularly mentioned in the Reply to the Third Charge.

I deſire a Book may be read, a Book in the hands of Mr. *Denham*, containing certain Anſwers given by the Lord *Chicheſter*, to certain Complaints made againſt that State, and written with Mr. Baron *Denham*'s own hand, which on debate, was Reſolved not to be read, being written only for a private Remembrance.

I ſhall refer to my Lord *Ranulagh*'s Depoſition the other day, to ſatisfie your Lordſhips touching the Proceedings at Council-Table.

To prove the Council-Board to be a Court of Record.

Robert Lord *Dillom* being asked, Whether before my Lord *Strafford*'s time he had not known always, during his memory, the Deputy and Council in all Cauſes of Plantation, and the Church, proceed by Petition, Anſwer, Examination of Witneſſes, Publication, and Hearing, as in other Courts of Equity, and upon Oath.

He Anſwered, That he remembers in my Lord *Chicheſter*'s time of Government, it was the practiſe of the Board ſo to do: That he remembers it in my Lord *Grandiſon*'s time; that he had the Honour to be called to the Council-Board under my Lord *Faulkland*'s Government, and knew it then. And it was in the Juſtices time that preceded my Lord *Strafford*'s Government, to have Petitions, Examinations of Witneſſes, Publication, a day of hearing granted, and all ordinary Proceedings.

Being asked, Whether at that Board they have not been puniſhed, who have diſobeyed Proclamations, and Acts of State, before my Lord *Strafford*'s time, and how long?

He Anſwered, That out of his Obſervation, at Council-Table Acts of State were made, becauſe of the ſcarcity of Parliaments, that they might be a Supplement to Acts of Parliament, that he hath known before; and when he ſate at the Board on contempt of theſe Acts of State, or Proclamations, which he ſaid, he had heard the Judges ſay to be a kind of Law of the Land, for the preſent; the Parties were Attached, brought to the Board, and upon full Examination of the Cauſe, and Proof of the Contempt, ſometimes Impriſoned, ſometimes Fined, according to the Delinquency and Degree of the Offence ſuppoſed to be committed.

Being asked of Fines in Caſes between Party and Party.

He Anſwered, That he doth not remember any Fine impoſed in a ſpecial Cauſe betwixt Party and Party.

Sir *Adam Loftus* being asked to the ſame purpoſe,

He Anſwered, It hath ever been, ſince his remembrance, the conſtant Practiſe there, in Cauſes of the Church and Plantion, to proceed on Petition, Anſwer, *&c.* and Fines impoſed on Breakers of Publick Acts of State and Proclamations. But he remembers not any Fines for Contemps, in caſe of particular and private Intereſt.

We ſhall admit it to have Cognizance of matters of Plantation and Church, and ſuch as are recommended from the King to the Council here. But not to be a Court of Record. Mr. *Glyn.*

From

Article. 4.

E. of *Strafford.*

From theſe Proofs, I infer, That the Council-Board there hath another Conſtitution then here, where it is only a Court of State.

I ſhall produce the Order made in my Lord of *Corke*'s Caſe, which I obſerve to be in the Caſe of the Church, and ſo within the Cognizance of Deputy and Council.

The Order was read, being ſigned by Sir *Paul Davis*, and acknowledged by my Lord of *Corke* to be Sir *Paul Davis*'s hand.

Upon reading whereof, my Lord of *Strafford* obſerved, That it appears to be a Church-Cauſe, That the Order was Juſt, and that the Clauſe for the Plantiffs giving of Security to anſwer the mean Profits, which my Lord of *Corke* ſaid was ſtruck out of the Order, and for my Lord of *Corke*'s liberty to bring his Action at Law, only he was limited to proſecute it within a year.

Mr. *Leake* was produced by my Lord of *Strafford*, and being asked what Authority he hath known the Council-Board in *Ireland* to exerciſe, both before my Lord of *Strafford*'s coming thither, and ſince, in Cauſes of the Church and Plantation, and concerning Contempts to Proclamations, and Acts of State, and what Countryman he is.

He Anſwered, That his name is *Leake* of *Leake*, in the County of *Nottingham*, where, he ſaid, his Family hath continued 400 years: That it is 14 years ſince he went into *Ireland*, and before this Lord Deputy's time; and before that time he did not obſerve any reſtraint from Injunctions on the Council-Board, till the Inſtructions publiſhed, and they did ſtay them.

That they proceeded by Injunction, Proceſs, Bill, Anſwer, Examination, and other Courſes, as in the Chancery of *England*. And ſince the ſame courſe hath been held. And my Lord of *Strafford* hath had in the Caſtle-Chamber divers Cauſes of Law argued before him concerning the Church, wherein one *Chadwick* and divers others were convented thirty times, when he the Examinant was there and heard them twenty he is ſure, but he thinks thirty. But my Lord of *Strafford* did forbear to give Sentence, till he heard theſe Cauſes argued: That 14 years he hath been very well verſed in that Kingdom, that he hath known Injunctions have gone out from thence to ſtay Proceedings in Cauſes, where they have Power of Juriſdiction, that he hath known my Lord Chancellor *Loftus* that was, to grant an Injunction without Bill, and before any Complaint depended before him, and that he himſelf had the Injunction granted.

Being asked about the time of his going into *Ireland*.

He ſaid, he went betwixt 1627, and 1628.

Mr. *Maynard.*

Whence obſerve, That the Witneſs hath made an Obſervation of the Inſtructions five years before he came into *Ireland*.

Being asked ſome other queſtions touching the occaſion of his going into *Ireland*, and how he came to take notice of the Proceedings there?

He Anſwered, He hath been there at ſeveral times, to purſue ſome Tenants of his that fled into *Ireland*; and by reaſon of the Suits and Petitions he proſecuted in his own Right, he had occaſion to enquire after Proceedings there, having been there for the moſt part of 14 years.

E. of *Strafford.*

To the Statute of 28 *H.* VI. which the Commons have preſſed as a Rule for the remitting of Cauſes to their proper Courts, and to annihilate all theſe Proceedings before the Deputy and Council; and before the Deputy alone

alone in his particular Juriſdiction, in the nature of a Court of Requeſts in *England*, I reſerve my ſelf to have my Council give ſatisfaction therein: Only deſire your Lordſhips to obſerve the laſt Clauſe, ſaving the King's Prerogative. *Article* 4.

Theſe Proceedings are not againſt *Magna Charta*, they being according to the Laws and Cuſtoms of the Land; though it be not the Cuſtom of *England*. And if he hath been an Innovator, it hath been to conform *Ireland* by all ways he could in Religion and Laws, to the better and more excellent Pattern of *England*.

To the Objections made againſt Mr. *Gwyn*, he is altogether unknown to me, only was recommended to me, and here is a Certificate that *Gwyn* is Maſter of Arts; but that was not read, nor inſiſted on.

To the matter of words Charged upon him.

He Anſwered, that words without Fact can be no matter of Treaſon, though of a higher nature then theſe.

That words are to be charged within a limited time.

1 *E.* 6. *Ca.* 12. wherby it is provided, That none ſhall be Impeached concerning Treaſon for words only, if the party, being within the Realm, be not accuſed within thirty days: If out of the Realm, within ſix months, *&c.* Which Proviſo his Lordſhip read, and reſerved to his Council farther to apply it.

For the words ſpoken to my Lord of *Corke*, That neither Law nor Lawyers ſhould diſpute my Orders. I conceive I might juſtifie the ſpeaking of them, if the Orders, and Acts of State be juſtly warrantable, and honourable made.

Yet it is improbable I ſhould ſpeak the words, when the Order refers it ſelf to Law.

If they were ſpoken, they are at the higheſt indiſcreet and fooliſh; and it is a heavy thing to puniſh me for not being wiſer than God Almighty hath made me.

For the laſt words, That I would make the ſaid Earl and all *Ireland* know, That ſo long as I had Government there, An Act of State made, or to be made, ſhould be as binding as an Act of Parliament. I obſerve my Lord of *Corke*'s quick memory, that could ſwear them roundly, without miſſing a letter or ſillable as they are laid in the Charge.

That theſe words are only in the Charge, and ſo only to be anſwered to. And for Anſwer, I ſay, That in caſe of an Act done, they may be brought collaterally, as an inducement, to prove the intention. But the Act muſt be proved, before they can touch me as of Treaſon.

My Lord of *Corke* is a ſingle Witneſs, and by a Proviſo, 1 *E.* 6. *Ca.* 12. no Perſon, after the firſt of *February* then following, is to be Arraigned, *&c.* of Treaſon, &c. for any words to be ſpoken after the ſaid firſt of *February*, unleſs the Offender be accuſed by two ſufficient Witneſſes, or ſhould without violence, confeſs them.

To the words ſpoken of by the other Witneſſes being the ſame in effect, I am not to anſwer, being extrajudicially proved, and ſpoken in other places and times than I am Charged withall.

Yet I think they might be fairly interpreted: For if an Act of State be not made againſt an Act of Parliament, or a Fundamental Law of the Land, but conſiſtent with it, and made by way of proviſion for remedying ſome preſent Miſchief in the Common-wealth, till the Parliament may provide Redreſs for it. They are as binding during the time they are in force, as an Act of Parliament (though I confeſs, the Compariſon is

Article 4. not good) becauſe they be made according to Law and Juſtice; according to the Fundamental Laws of the Land, wherein the Prerogative of the Crown hath a part, as well as the Property of the Subject: For if the Propriety of the Subject, as it is, (and God forbid but it ſhould continue) be the ſecond, undoubtedly the Prerogative of the Crown is the firſt Table of that Fundamental Law, and hath ſomething more imprinted upon it: For if it hath a divinity imprinted upon it, it is God's Anointed; It is he that gives the Powers. And Kings are as Gods on Earth, higher Prerogatives than can be ſaid, o found to be ſpoken of the Propriety or Liberty of the Subject; and yet they go on hand in hand, and long may they do ſo, long may they go in that Agreement and Harmony, which they ſhould have done hitherto, and I truſt ſhall be to the laſt, not riſing one above another in any kind, but kept in their own wonted Channels. For if they riſe above theſe heights, the one or the other, they tear the Banks, and overflow the fair Meads equally on one ſide and other. And therefore I do, and did allow; and ever ſhall, for my part, deſire they may be kept at that Agreement and perfect Harmony one with another, that they may each watch for, and not any way watch over the other. And therefore this being a Care of the Prerogative, as long as it goes not againſt the Common Law of the Land, it is the Law of the Land, and binds, as long as it tranſgreſſes not the Fundamental Law of the Land, being made proviſionally for preventing of a Temporary Miſchief, before an Act of Parliament can give a Remedy.

And this Condition muſt be implyed, That it muſt be binding, provided it be according to the Law of the Land. I inſtance in that Exception that King *James* would take, when a Man ſays he will do a thing as far as he may with Conſcience and Honour; becauſe in Perſons of Conſcience and Honour, thoſe words are always implyed.

That the Wiſdom of our Anceſtors hath prevented this Miſchief; That for a miſ-word, a Peer of *England* ſhould loſe his Priviledge, being as great as any Subjects that live under a King, that is not a free Prince of the Empire. And the Preamble of a Statute in Queen *Elizabeth*'s time, the very bent whereof is to take away the dawning of words, without any further Act; which Preamble was read to their Lordſhips.

And ſo I conclude, the words were unwiſely ſpoken, becauſe they may be brought to a hard ſenſe, but not Criminal, for none of them ſwear any thing done in breach of the Law.

I except againſt my Lord *Killmallock*'s ſwearing Sir *George Ratcliffe* to be my Eccho, as if he knew my thoughts; and againſt Mr. *Hoy*, as a party concerned in Intereſt, though not in name, in a Suit that is or will be brought againſt me before your Lordſhips come to the end of the Charge.

I confeſs Mr. *Waldron*'s Teſtimony makes me ſtagger, being the only perſon could make me believe I ſaid the words.

I except againſt Sir *Pierce Crosby*'s Teſtimony, having been formerly Sentenced in *Star-Chamber*, and I know what Sir *Pierce Crosby* ſwore there and that I never Communed with him ſo far, as to have ſuch a Diſcourſe as is mentioned, in all my life.

To the Suit in the *Caſtle-Chamber* againſt the Earl of *Cork*, on pretence of breaking on Order of Council-Table. I conceive it had relation to an Order made in King *James*'s time 20 *March*, 11 *Jac.* which I deſire may be read, (being now produced) as alſo the Information there exhibited, that ſo I may juſtifie my Anſwer in that point of it; That the

the Suit was not upon that Act alone, but for other matters alſo; but that was admitted by the Committee. And ſo the reading of them was waved. Article 4.

To that point of Mr. *Waldron*'s Teſtimony, touching the offering of a Leaſe to the Perſon concerned, rendring the half value: I conceive this Circumſtance qualifies the words, it being according to Law.

To demonſtrate which, the Statute was read.

That no Leaſe ſhall be granted, upon which leſs is reſerved to the Leſſor (during 21 years) then the moiety of the Lands value.

And ſo his Lordſhip concluded his Defence, and the Manager made Reply in ſubſtance as followeth.

Mr. *Maynard.*

That this Article proves my Lord of *Strafford*'s Intention to ſubvert the Laws.

That the long time ſpent in maintaining the Juriſdiction of the Council-Board, is the leaſt part of the Article.

That though theſe words ſingly, be admitted not to be Treaſon, yet ſeveral words and actions muſt prove the general Charge, of his endeavouring to ſubvert the Laws.

To the ſeveral Proviſoes in that Act of Parliament, mentioned by my Lord of *Strafford*, concerning words, we obſerve, That the words Charged are only matter of Evidence, to his general Intention, of ſubverting the Laws. And whereas he ſays they are not charged in time, the Commons bring this as done long ago, and continuing to this day, if he were not prevented; ſo they take him *Flagrante Crimine*.

To the Practiſe of the Council-Table before his time, his Witneſſes have proved their proceedings in Caſes of the Church and Plantations. But in other Caſes we deny it, for it is contrary to Law.

That admitting the extent given by the Inſtructions to Church-Cauſes (though the Proclamation hath no ſuch exception.) Yet it comes not to the Caſe of my Lord of *Corke*, who claimed the thing in queſtion as a Lay Impropriation, derived to the Crown, by the Statute of Diſſolution.

That my Lord of *Strafford* makes this Government Arbitrary, in threatning the Earl of *Corke*, to lay him by the heels, if he went to Law, whereas the Order gave him liberty.

That the Original Order in my Lord of *Cork*'s Cauſe was drawn, with theſe words put out, concerning *Gwyn*'s giving Security, and that juſtifies my Lord of *Cork*'s Teſtimony.

That notwithſtanding my Lord of *Strafford*'s juſtification of his words, that neither Law nor Lawyers ſhould queſtion his Orders. This is to aſſume an Arbitrary Power; for if his Orders be legal, the Law muſt juſtifie them, if not, queſtion them.

That the words, of making an Act of State equal to an Act of Parliament, are proved by my Lord of *Corke*, and thoſe ſpoken are a confirmation of thoſe before, and expreſly within the Article. The latter point thereof recites, that he ſpake the words at other times.

This altogether juſtifies my Lord of *Cork*'s Teſtimony, though a ſingle Witneſs, and prove that my Lord of *Strafford* hath made it a habit to ſpeak ſuch words.

That they have one Witneſs more, and that is my Lord of *Strafford* himſelf, who ſays, He never ſpake any thing but truth; and ſaid, That he would make an Act of State equal to an act of Parliament.

Article 4.

We deſire, that for the taking off the Aſperſion caſt on Sir *Pierce Crosby*, my Lord of *Caſtlehaven* may be examined, touching the words alledged to be ſpoken in his preſence.

E. of *Caſtlehaven* a Witneſs.

The Earl of *Caſtlehaven* being ſworn and examin'd touching the ſaid words, Anſwered, That it is a buſineſs paſt long ago; and but a Table-diſcourſe, and he took not much notice of the Circumſtances: But as he remembers, there fell a difference between my Lord of *Strafford*, and Sir *Pierce Crosby*, within three or four months after my Lord's coming over; and that as well as he can remember, my Lord of *Strafford*, did ſay, That an Act of State was equal to an Act of Parliament; but he remembers not the occaſion.

Mr. *Glyn*.

That the Juſtice of the Order in my Lord of *Cork*'s Cauſe, is not material, or whether within the Juriſdiction of the Council-Table, the Charge being, That upon ſuch an Order made, my Lord of *Strafford* threatned the Earl of *Cork* for Suing at Law.

That the Juſtification brought by my Lord of *Strafford*, is an Aggravation, reſtraining liberty to Sue at Law, to a year, elſe to be concluded for ever.

Whereas my Lord of *Strafford* ſays, he hath ſpoken unwiſely, but done nothing; ſure he that Threatens doth ſomething; and his Actions will appear in the next Articles.

For the Priviledge of Peerage, It were to be wiſhed he had known, or remembred it ſooner, in my Lord *Mountnorris*'s Caſe.

That though he ſays, Acts of State are to be allowed for temporary proviſion till an Act of Parliament, yet when things are propounded, and rejected in Parliament, ſhall he ſupply it by an Act of State.

We deſire to examine one Witneſs more.

The Earl of *Strafford* excepted againſt it, as not regular, the Lords Adjourned to their Houſe, to take conſideration of it.

Lord High Steward.

And a little after, returning, the Lord Steward declared their Lordſhips Reſolution, That the Witneſs might be examined; The matter in queſtion, ariſing from what was offered from the Earl of *Strafford*'s Defence.

Roger Lotts a Witneſs.

Roger Lotts Sworn and examined, what words my Lord of *Strafford* gave out, when an Act for Powder would not paſs in the Commons Houſe; and what Act of State was thereupon made.

He Anſwered, That he had the Honour to be one of the Members of that Parliament that began 1634, and ended *April* 1635.

That at the Cloſe of that Parliament, my Lord of *Strafford* then Lord-Deputy, told the Houſe of Commons, then ſent for up, That they had Voted againſt ſome Bills in the lower Houſe, amongſt the reſt, that of Gun-powder; where it was made Felony for any Man to buy, or have any, unleſs he got a Licence firſt for it: That my Lord afterwards told them, That notwithſtanding they had Voted againſt it, yet he would make that, and ſome other Bills they had Voted againſt, Acts of State, that ſhould be as good; and ſaid, he heard it was done afterwards, but he doth not know that.

This

Article. 4.
Mr. *Maynard.*

This Witneſs is ſomething of Juſtification of my Lord of *Cork*'s Teſtimony; againſt which, my Lord of *Strafford* hath made ſome Exception.

And the Lord *Digby* added ſomething for the Juſtification of my Lord of *Killmallock*'s Teſtimony; againſt which, my Lord of *Strafford* had likewiſe excepted.

And ſo the Reply was concluded.

To the Depoſition of *Roger Lotts*, my Lord of *Strafford* Anſwered,

E. of *Strafford.*

I had received direction concerning Powder; it being not conceived fit, for Reaſons of State, to buy, and have Powder at pleaſure, or that that Commodity ſhould be ſo frequently brought into the Kingdom, and committed to unſafe hands; ſo in that point, I did but what I was commanded out of many Reaſons; which I deſire I may forbear to expreſs, it not conducing to my Acquittal or Condemnation.

And ſo the Lords Adjourned.

The

The Sixth day.

Saturday, March 27, 1641.

THE Fifth Article.

The Charge.

Article. 5. That according to ſuch his Declarations and Speeches, the ſaid Earl of Strafford did uſe and exerciſe a Power above, and againſt, and to the Subverſion of the ſaid Fundamental Laws, and Eſtabliſhed Government of the ſaid Realm of Ireland, extending ſuch his Power, to the Goods, Free-holds, Inheritances, Liberties, and Lives of His Majeſties Subjects of the ſaid Realm; and namely, the ſaid Earl of Strafford, the Twelfth day of December, Anno Domini 1635. in the time of full Peace, did in the ſaid Realm of Ireland, give, and procure to be given, againſt the Lord Mountnorris (then, and yet a Peer of the ſaid Realm of Ireland, and then Vice-Treaſurer, and Receiver-general of the Realm of Ireland, and Treaſurer at War, and one of the principal Secretaries of State, and Keeper of the Privy Signet of the ſaid Kingdom) a Sentence of death by a Council of War, called together by the ſaid Earl of Strafford without any Warrant, or Authority of Law, or Offence deſerving any ſuch puniſhment. And he the ſaid Earl, did alſo at Dublin, within the ſaid Realm of Ireland, in the month of March, in the Fourteenth year of His Majeſties Reign, without any Legal or due Proceedings, or Trial, give, and cauſe to be given, a Sentence of Death againſt one other of His Majeſties Subjects, whoſe name is yet unknown; and cauſed him to be put to Death in Execution of the ſame Sentence.

Mr. *Glyn.* THE Manager began to open this Article, ſhewing, That though my Lord of *Strafford* inſiſted on it, That whatever his words were, his Actions were not againſt Law. This Article comes properly to reply to that Anſwer, It charging him with exerciſing of a Tyrannical Power over the Perſon of a Peer of that Realm.

And

Article 5.

And firſt, It was deſired that the Sentence of Death againſt my Lord *Mountnorris*, might be read, which was atteſted on Oath, to be that which was delivered by Mr. Secretary *Windebank*, upon the Commons humble Suit to His Majeſty for His leave, to have a Copy thereof, That the Papers concerning my Lord *Mountnorris*, might be delivered into the Houſe, occaſioned upon my Lord *Mountnorris*'s Petition to the Houſe in that behalf.

The Sentence was read.

Reciting firſt, His Majeſty's Letter, *July* 21, then laſt, wherein notice is taken of the Reſpect due to the Deputy and General of His Majeſty's Army, and of the Carriage of my Lord *Mountnorris*, holding a Captains place in the Army; in uttering Speeches, inciting a Revenge on the Earl of *Strafford*, Lord Deputy, and Lord General; and Command thereby given, on receipt thereof to call a Councel of War; and that the Lord *Mountnorris* ſhould undergo ſuch cenſure, as the ſaid Councel of War ſhould impoſe, for the Lord Deputy's full reparation.

Secondly, That a Councel of War was accordingly called; the words are alſo ſet forth, and the occaſion, as followeth, That within three or four Days after the Lord Deputy had diſſolved the Parliament, his Lordſhip ſitting in the Preſence Chamber, one of his Servants, in moving a Stool, happened to hurt the Lord Deputy's Foot, then indiſpoſed, through an acceſſion of the Gout, which being ſpoken of at the Lord Chancellor's Table, one ſaid to the Lord *Mountnorris*, being there preſent, it was your Lordſhips Kinſman, who is one of the Lord Deputy's Gentlemen Uſhers, that did it.

Whereupon, the Lord *Mountnorris* publickly, and in a ſcornful and contemptuous manner, anſwered, *perhaps it was done in Revenge of that publick Affront that my Lord Deputy did me formerly.* But I have a Brother that would not have taken ſuch a Revenge.

Thirdly, The Sentence likewiſe ſets forth, That the Lord *Mountnorris* would not Anſwer the ſaid Charge negatively or affirmatively, though required by the Councel of War.

Fourthly, That thereupon, the Witneſſes, for proof thereof, were called, *viz.* Viſcount *Moore*, and Sir *Robert Loſtus*, who upon Oath depoſed the ſame words, to be ſo then, and there ſpoken; and the Lord *Mountnorris* at laſt ſubmitted himſelf to the Councel, proteſting, That whatſoever interpretation might be put upon his words; he intended no hurt to the Perſon of his ſaid Lordſhip; and affirmed, That he would dye before he would give the Deputy and General occaſion to give him ſuch a Rebuke.

Fifthly, That for the nature of the offence, It was conceived to contain a Calumny to the Lord Deputy and General, inſinuating the Affront pretended, in theſe words of my Lord *Mountnorris*'s, to be given to the ſaid Kinſman, and an Incitement to Revenge; and that if the words had been ſpoken of the Perſon of the King, it had amounted to High Treaſon; which by ſome rules of Proportion, might be applyed to His Deputy.

Sixthly, That the words were ſpoken when the Lord Deputy had the Honour to be Apparelled with his own Robes of Majeſty and Soveraignty; when part of the Army was in motion, and the Lord Deputy and General preſent.

Seventhly,

Article 5. Seventhly, That the words were adjudged an apparent breach of the 21*ſt* Article of the Printed Orders, and Laws for War, dated the 13*th* of *March*, 1633. whereby it is Ordered, That no Man ſhall give any diſgraceful words of any Perſon in the Army, upon pain of Impriſonment, publick Diſarming, *&c.* And alſo of the 13*th* Article, That no Man ſhall offer Violence or Contempt to his Commander, or do any Act, or ſpeak any words, to breed mutiny in the Army, or Impeach the obeying of the principal Officer, upon pain of Death.

Eighthly, That according to the ſaid Articles, the Counſel do unanimouſly, with one joynt conſent, (not one of us of another Opinion) adjudge the ſaid Lord *Mountnorris*, for his high and great Offence, to be Impriſoned, to ſtand from henceforth deprived of all his Places, and Entertainments due, which he holds in the Army. To be Diſarmed, to be baniſhed the Army, and diſabled from ever bearing Office. And laſtly, to be ſhot to Death, or loſe his Head at the pleaſure of the General.

Given at His Majeſty's Caſtle at Dublin, *December* 12, 1635.

Valentia Cromwell.

Mr. *Glyn.* This Sentence of Death againſt a Peer, was pronounced by Martial Law, againſt the fundamental Rules of Law, without Trial, Anſwer, or Hearing; That though my Lord of *Strafford* owns it not, yet he made relation of the Injury to his Majeſty: His Majeſty did juſtly direct, that my Lord of *Strafford* ſhould have juſt reparation. That my Lord of *Strafford* produceth the Witneſſes, refuſed to let my Lord *Mountnorris* Anſwer, though he demanded the benefit of the Law; owns it in his own Perſon, for he ſaid, (treading on our Foot) and an Injury done to us.

And whereas ſome would have mitigated it, and found him guilty of the firſt Article, He himſelf pronounceth it, both or none.

The whole proceeding was but half an hour; no notice was given before-hand, and my Lord *Mountnorris* checked, for deſiring to croſs-examine.

My Lord *Mountnorris* produced as a Witneſs; ſome Exceptions were taken againſt him by my Lord of *Strafford*, but were over-ruled.

Lord *Mountnorris* a Witneſs. His Lordſhip being Sworn, and being directed to declare the whole truth in this buſineſs, Anſwered as followeth:

Upon the 11*th* of *December*, 1635. I was warned by a Purſevant, late at Evening, to attend my Lord Deputy in the Council-Chamber, at a Council of War next Morning by Eight of the Clock.

Coming thither accordingly, I found many of the Council, and Captains of the Army; and having conferred with ſeveral of the chief of them, and with my Lord *Valentia Cromwell*, and others, they ſaid, they knew not for what that Council of War was ſummoned; after a whiles ſtay, my Lord Deputy came into the Room, and ſate down at the Boards end, and commanded the reſt to ſit down; where my ſelf, that had the Honour to be His Majeſty's Vice-Treaſurer, by His Grace and Goodneſs, ſate in my place: After all were ſet, my Lord Deputy expreſt, he had called that Court to do himſelf Right and Reparation againſt my Lord *Mountnorris*. At thoſe words, I roſe up from my place, and humbly preſented

preſented my ſelf at the Boards end, as the manner is, near his Lordſhip; who making ſome Speech, about words uttered by me ſhortly after the preceding Parliament, which was *April* 18, 1635, and the words ſpoken within three or four days after, took a Paper in his hand, and out of that, read the words wherewith he charged me, to the effect, I conceive, as they are mentioned in the Sentence. After his Lordſhip had read them, he demanded of me, whether I would confeſs them, or deny them. I did humbly deſire, I might have the Charge in writing, that I might Anſwer it by advice of Learned Counſel, the words being charged to be ſpoken long before, and it was hard to anſwer them ſuddenly. His Lordſhip Anſwered, That was not the courſe of a Martial Court, I muſt Anſwer directly. I did ſeveral times deſire I might have the Charge in writing; and my Lord of *Strafford* anſwered in the ſame kind, That I muſt Anſwer, whether I would confeſs, or deny them. *Article* 5.

Two or Three of the Counſel of War ſpoke ſomething alſo to that purpoſe; as I remember, the Lord *Cromwell* for one, and Sir *Ch. Coote*, and Sir *John Burlacy*; who intimated, that the manner was, I muſt confeſs them, or deny them. Standing a while ſilent, my Lord Deputy ſaid, He thought they muſt proceed againſt me as a Mute; for he will not Anſwer, and therefore they muſt take them for granted. I ſaid over again what I had ſaid before, and deſired I might have my Charge in writing; and that I might have Advice of Counſel, that I might be uſed as a Peer of the Realm, and an Officer of the Crown; and ſtill his Lordſhip denied, That muſt not be, It was not the Order of a Martial Court.

I replyed, and told the Lord Deputy, I had ſeen it otherwiſe in a Martial Court in *England*, between my Lord *Reas* and *Ramzie*, where the Cauſe was debated by the Advocates in writing. The Lord Deputy told me again, That muſt not be, I muſt Anſwer directly; and hereupon, the Lord Deputy cauſed His Majeſt's Letter, dated the laſt of *July*, to be read; and when that was read, required me to make Anſwer: I confeſs, I was amazed at hearing of this Letter, and was much grieved; and with Humility and Grief, expreſſed on my Knees what Sorrow it had wrought on me; and that I had never willingly Offended His Majeſty, or His Laws: And declared, that I had been miſ-repreſented to His Majeſty; and thoſe Letters were got by miſ-information; and humbly deſired a Copy of thoſe Letters, and the Charge, that I might Anſwer by writing; and that His Majeſty might know my Anſwer before further Proceedings. His Lordſhip upon that, rebuked me with worſe Language than was fit to be uſed to a meaner Man, and not a Peer, that deſired but Law and Juſtice. The Lord Deputy told me, that I was not miſ-repreſented to His Majeſty; for himſelf had repreſented me, and that matter to His Majeſty, and he did not uſe to miſ-repreſent any thing: And then directly required me, whether I would confeſs them, or deny them. If not, he would prove them on Oath; and thereupon my Lord Deputy called for my Lord *Moore*, ſitting at Board with him, and required him to give his Teſtimony; who had an Oath given him by the Lord Deputy's command, by the Clerk of the Council; and referred himſelf to what he and Sir *Robert Loftus* had long before put under their hands: Thereupon the Lord Deputy gave that Paper to the Clerk of the Council to read; which was the Paper the Lord Deputy held in his Hand, and out of which he had read the Charge: And that being ſhewed to my Lord *Moore*, he ſaid, to his beſt remembrance thoſe were the words ſpoken. Sir *Robert Loftus* was alſo called in, and he being required to give his Teſtimony, referred himſelf

Article 5. to that which he and my Lord *Moore* had put under their hands; and being ſhewed him, with his hand to it, he affirmed it. Then my Lord Deputy asked me, what I could now ſay, ſince the words were proved to my face: I humbly told his Lordſhip, and made ſolemn proteſtation, and offered to take my Oath, That I did never ſpeak the words, as I was able to prove by ſeveral Witneſſes; and deſired, That the Lord Chancellor (at whoſe Table they were ſpoken) and Judge Martial of the Kingdom, then in Town, might be ſummoned to give his Teſtimony for truth, and Sir *Adam Loftus* his Son, and near twenty others; and deſired they might be examined in the Cauſe; and that I was well able to prove, that the words charged to be ſpoken by me, were not ſpoken by me, but by others, as to that part that concerns the Affront; but his Lordſhip refuſed me to have any examined.

Being asked, Whether all the Army was then on the march, as my Lord of *Strafford* had ſaid in his Anſwer? He Anſwered,

There was at that time three, or four, or five Companies, I am not able to ſay how many.

When my Witneſſes were refuſed, and I had made my proteſtation, that I had not ſpoken them, and was ready to prove it, (my Lord Deputy Anſwered, That he knew my Oaths and Proteſtations well enough) I took Exception to the Teſtimony of the Lord *Moore*, and Sir *Robert Loftus*, as I might in a Legal-way. But my Lord Deputy rebuked me, and ſpoke in commendation of them; and bid my Lord *Moore* ſit down now, and be one of my Judges: And thereupon commanded me to withdraw, which I did, and went out into a Gallery by, where I ſtayed about the ſpace of half on hour, I think not more, I am ſure not an hour; and was then called in, and at the beginning, was required to Kneel as a Delinquent; which I conceived I was not, having endeavoured always to ſhew my ſelf a faithful Officer.

Then my Lord Deputy commanded Sir *Charles Coote* to pronounce the Sentence, as Provoſt Martial of *Connaught*; which he did briefly, in effect as in the Sentence: And my Lord Deputy took occaſion to make a Speech, and told me invectively enough, (amongſt other things) there remained no more now, if he pleaſed, but to cauſe the Provoſt Martial to do Execution. But withall added, That for matter of Life, he would ſupplicate His Majeſty. And I think he ſaid, he would rather loſe his Hand, then I ſhould loſe my Head; which I took to be the higheſt ſcorn to compare his the Lord Deputies Hand, with my Head: I ſaid, I never did, and hoped I never ſhould, endanger my Head by Offending His Majeſty's Laws.

I was hereupon commanded to be taken to Priſon, by the Conſtable of the Caſtle, who took me thence away; what paſt in the time of my abſence, I knew not; but the Articles I was charged with breach of, were not declared, nor I urged to Anſwer; if I had, I could have Anſwered, I knew of no ſuch Articles, nor ever ſaw them, till *June* 1636, publiſhed by his own Authority; and made in time of War: And though made for regulating of the Army, yet were never put in practice; And on a Conference with ſome of the Council of War, I was informed, they differed in Opinion amongſt themſelves; and ſome moved both the Articles might not be preſſed; And his Lordſhip Anſwered, he would have both or none.

Being

Being asked on my Lord of *Strafford*'s motion, How long after the Sentence given, he remained a Priſoner in the Caſtle? *Article* 5.

I was Committed the 12*th*, and remained until the 18*th*, and was not releaſed by any Favour of my Lord Deputy, but on a Certificate of the Phyſitians; and that not admitted but upon Oath, That I was in peril of my life; and a Petition drawn by them that had more care of my Health than my ſelf, being ſo afflicted in body and mind, with the high Injuſtice and Oppreſſion I had, that I was extreamly ill; and was then remitted on Security, given by the Chief Juſtice in 2000 *l.* Bond, to be a Priſoner. Witneſs.

Being asked on the Committees behalf, whether he was not taken to Priſon again; and how long he continued in Priſon for this Cauſe?

I continued at my Houſe, and was very ill; and after that ſeveral times, was called to the Council-Table by my Lord Deputy; and an Information exhibited in the *Star-Chamber* for pretended Crimes, which I ſhall ever deſire to Anſwer in any publick Legal Judicature, rather than live. Witneſs.

And I was impriſoned again the 11*th* of *April*; being ſent for to my Houſe, and found with my Counſel about me, preparing my Anſwer in the beſt manner I could; and the Advice was, I ſhould demurr to that Information, becauſe I ſtood under the Sentence of death: I was carried by the Conſtable to the Caſtle, and brought before my Lord Deputy; and the ſaid 11*th* of *April* 1636, was committed cloſe Priſoner; and there continued till the ſecond of *May*: And I knew no other cauſe, but that I had (as he ſaid) neglected the King's Grace; and had ſent my Wife into *England*, and tranſgreſſed a Proclamation.

To which I anſwered, I had not tranſgreſſed it; that my Wife was full of Grief at my Calamities: and I had ſent her to ſave my Life.

Then my Lord Deputy told me, That I had refuſed the King's Grace offered me, in not accepting his Pardon; which I thought not Legal for me to take: And thereupon Committed me.

Being asked on the Lord Lieutenant's motion, Whether the Council were not preſent?

He Anſwered, Some of the Council were preſent; but my Lord Committed me, the Council not ſpeaking a word. Witneſs.

Being asked again about the time of his Commitment:

I was firſt Committed the 12*th* of *December*, let go the 18*th* to my Houſe; Committed again the 11*th* of *April*, put out the ſecond of *May*: I was then in great Extremity, and admitted to my Houſe again; where I lay in a long continuing ſickneſs, and under the hands of Phyſitians: And the 30*th* of *January* afterwards, becauſe I ſued not out the Pardon, was impriſoned again, and there continued till *March* 1637.

The Lord *Dillom* was called, and after ſome exception taken by my Lord of *Strafford*, to the examining of him, becauſe he might ſpeak things that amount to an Accuſation of himſelf, the ſame was over-ruled; the Committee for the Commons declaring, that they would make no uſe againſt him, of any thing he ſhould ſpeak concerning himſelf. His Lordſhip was thereupon Sworn, and asked what my Lord of *Strafford*'s carriage was at the ſaid Sentence, not accuſing himſelf: Lord *Dillom* a Witneſs.

He Anſwered, That he was preſent at the Council, on ſummons to be there; and the Council being ſet, as a Council of War, my Lord of *Strafford* did ſhew what they were called for; and did ſet forth ſome Injuries he conceived done him by my Lord *Mountnorris*.

Article 5.

Upon that my Lord *Mountnorris* was ſpoken to; and much interlocution there was, before he would ſay he did ſpeak the words, or deny them; and after much debate to and fro, the Witneſſes were called in, my Lord *Moore*, and Sir *Robert Loftus*; and they did teſtifie the words in the Charge, upon Oath; much debate there was; to call every particular to remembrance he cannot at this preſent, but as near as he can he will, that was before my Lord *Mountnorris* withdrew; and after his withdrawing, and ſome Speeches to the Council of War, they came to Voting; and in the Voting, there was never a Man to his remembrance, in giving his Vote on both Articles, but did profeſs he gave it in a confidence, that there ſhould be Mercy extended to my Lord *Mountnorris*; and with an Interceſſion, that he might find Mercy from His Majeſty: And when the Votes were all paſt, my Lord of *Strafford* ſtretched forth his right Arm, and proteſted he had rather have his Arm cut off, or loſe his right Arm, than my Lord *Mountnorris* ſhould loſe a hair of his Head, or a drop of his Blood, for that cauſe; and that he would write to His Majeſty, to ſupplicate Him for Mercy.

Being asked on the Committees motion, Whether my Lord of *Strafford* did not publiſh, he had acquainted His Majeſty with it, and they were called together to give Reparation of ſome Injuries done to himſelf.

He Anſwered, My Lord made a long Speech at that time, ſetting forth the Charge, and making mention of His Majeſty's Letter, and His Majeſty's Letter was read; and he did underſtand by my Lord Deputy, it was to give Reparation; but the particular words, on his Oath he doth not remember.

Being asked, whether (ſome of the Council moving they might proceed on the Article that did not extend to Life) my Lord of *Strafford* did not reply, Nay both.

He Anſwered, That he remembers very well it was propoſed to the Council of War, that they were to judge on both Articles.

And being asked by whom?

He ſaid, He will Ingenuouſly anſwer, he believes my Lord of *Strafford* did; but ſpecially to ſay, who, or in what manner, he cannot.

Being asked, whether the Evidence given againſt my Lord of *Mountnorris*, was not written in a Paper, drawn out by my Lord of *Strafford*; and that the Witneſſes referred to that wholly.

He Anſwered, He did ſee a piece of Paper in my Lord of *Strafford*'s hand; and believes it was ſome note for his remembrance, what it was, he knows not; and when the Witneſſes were brought in, there was a paper to which they had ſet their hands of the words ſpoken.

Being asked other queſtions ſucceſſively, touching the preſſing of the Councels proceedings on the Article only, that touched not death; and whether my Lord of *Strafford* wiſhed them to proceed on both?

He Anſwered, He remembers it not ſo preſt on that occaſion; nor doth he remember whether ſuch a proviſion was made, That the Proceedings ſhould be on the Article that touched not Life.

Being asked, whether any beſide my Lord of *Strafford* moved, they might proceed on both Articles.

He Anſwered, He remembers in the debate, the manner of proceeding was ſpoken of; and to his beſt remembrance, by the Diſcipline and Rule of the Army, it was ſaid, he was to be proceeded againſt on both.

Being asked on my Lord of *Strafford*'s motion, Whether the Earl of *Strafford* did not in plain and direct terms ſay, He would not be a Judge in that Cauſe, nor give a Vote by any means?

He

He Anſwerred, He remembers he gave no Vote, and being more than five years ſince, the ſpecial words he doth not remember; but in general, after he had ſet forth the Injuries done to himſelf, he profeſt, he would give no Vote, but left it to the Council. *Article* 5.

Being asked on the Lord of *Strafford*'s motion, Whether he did not deſire the Council of War, but to proceed as to any other Officer in the Army; and what Sentence they ſhould give, he would not take ill.

He Anſwered, When my Lord *Mountnorris* was withdrawn he ſpake not a word, but did when he came in again: He doth not remember the words.

Being asked, Whether the Army was not a great part of it in *Dublin*, and in motion, and daily exerciſed, when the words were ſpoken by my Lord *Mountnorris*?

He Anſwered, He cannot tell preciſely whether the moſt part was there; but there was a part of the Army there, and they did exerciſe.

Being asked on the motion of the Committee, Whether the Sentence he approved ſo well of, he thanked them for it?

He Anſwered, That he doth not remember any ſpecial words; but he thinks in Civility he would do it.

Being further asked, Whether, after my Lord *Mountnorris* was withdrawn, my Lord of *Strafford* did not continue in his place, and ſit at the Table end amongſt the Council?

He Anſwered, I do really believe he did ſo.

The Lord *Strafford* confeſſed he did, when the Votes were delivered; but deſired the Lord *Dillom* might be asked, Whether he ſate only as a party, not as Judge; and ſate bare through the whole proceeding of the Cauſe?

He Anfwered, He doth not remember it particularly, whether he ſate bare all the while; for it is long ago, and he did not heed it.

The Lord *Ranulagh* being asked, Whether he was preſent at the Lord *Mountnorris*'s Sentence; and whether my Lord *Strafford* declared, they were called together to give ſatisfaction for Injuries done him by my Lord *Mountnorris*? Lord *Ranulagh* a Witneſs.

He Anſwered, That in this particular my Lord of *Strafford* was Nobly pleaſed to mention his tenderneſs of my Lord *Dillom*, leaſt he ſhould be his own accuſer, He was pleaſed to mention ſomething the other day, wherein he had tenderneſs of him; That he ſhall be as little fearful to ſpeak the truth in this Cauſe, as in that, having been required by their Lordſhips; as preſuming he hath done nothing but what he may juſtifie; That for that particular queſtion, he hath been heretofore examined in ſome particulars of it; and ſhall now, with the beſt of his memory repeat, and offer to their Lordſhips, according to his weakneſs, every paſſage in it.

That he was ſummoned to appear in the Council-Chamber; and, as he takes it, it was *December* 12, 1635. That being there, my Lord ſate in a Council of War, and he (amongſt others) having the Honour to wait on him, my Lord *Mountnorris*'s name being mentioned after he was ſet at the Board, aroſe, and ſtood as near my Lord Deputy's Perſon, as was fit for him, towards the upper end of the Table: And there ſtood charged with ſeveral diſreſpectful words ſpoken by him; and the words mentioned in the Cenſure that was read, were the words; That he was charged to have

Article 5. have ſpoken thoſe words in breach of certain Articles, by which the Army of *Ireland* was Governed, the 13*th* and the 41*ſt*, That there was much interlocution from my Lord Deputy to my Lord *Mountnorris*, and returned from my Lord *Mountnorris* to my Lord; the ſubſtance was, That he was ready to give his Charge, That he had violated thoſe Articles, That my Lord *Mountnorris* deſired time to anſwer by Counſel; and that he might have his Charge in writing. That being not readily granted, he inſiſted on it, That he might have time to prepare his Anſwer, but was told, it was contrary to the form of that proceeding; But whether that Objection of the form, came from my Lord himſelf, or from ſome other Member of the Board that I heard before named, I cannot poſſibly ſay. But thus ſtands the ſtate of it, my Lord *Mountnorris* neither confeſſing nor denying the Charge, my Lord Deputy replyed, Sir, If you do neither confeſs nor deny the Charge, how ſhall we proceed? The Deputy called on the Lord *Moore*, and ſaid, What ſhall we ſay to this buſineſs? My Lord, ſaith the Lord *Moore*, what I can ſay, is under my Hand; That a little time after, a Letter was read from the King, whereby His Majeſty was pleaſed to give direction to proceed in a Martial Court, for Reparation and Honour of the Lord Deputy, on the Complaint and Information given to the King. That my Lord *Mountnorris* inſtantly fell on his Knees, expreſſing a great deal of Grief and Sorrow, and in truth Paſſion, and had not much to ſay for himſelf; and ſoon after, was bid to withdraw; and being withdrawn, my Lord Deputy ſaid, That as he had complained to the King, ſo he would expect that Honour from the Board, That his Cauſe ſhould be taken into conſideration, and ſuch Redreſs given as was fit; He demanded Juſtice according to the Articles inſiſted on: And having declared it, there was a ſilence amongſt us for ſome time; That he was the firſt that brake that ſilence; and in as humble manner and terms as he could light upon, did humbly deſire my Lord Deputy to give him leave, to ask whether he would give leave to wave either of thoſe Articles; but my Lord ſaid, he would demand Juſtice on both.

That this being ſo, there was ſome Interlocution of diſcourſe among the Council, and in truth he thinks, that he was one of the firſt that ſaid, that theſe Articles, and the words, cannot bear ſo good a conſtruction, but that there may be ſome danger of a breach upon theſe Articles.

Being asked, Whether the words were not repreſented to the Council of War in a Paper written, and the Teſtimony given in purſuance of that Paper.

He Anſwered, That as he remembers, my Lord *Moore* having made a return to my Lord Deputy, My Lord, What I can ſay, your Lordſhip hath under my hand; he thinks my Lord Deputy ſaid, My Lord, if you deny it, I have it under your hand to ſhew.

And thereupon (as he remembers) the Clerk of the Council ſtanding by, had direction to draw up ſome Interrogatories, which my Lord *Moore* did acknowledge; and Sir *Robert Loftus* too did affirm, That they were ſpoken by my Lord *Mountnorris*, as much as was mentioned in the Paper.

Being asked, How many Companies of the Army were then in Town how many in a Company; and whether they were exerciſed in a more than ordinary Training; and how many Companies the Army conſiſts of:

He Anſwered, That he thinks the Horſe-Troops were 40, or 50 at the moſt; ſome my Lords own. The Foot-Companies were 50. And of thoſe

thoſe Companies there were (he takes it) two Horſe-Troops, beſides my Lords own Troop, and four Foot-Companies; they were called up to guard and attend our occaſions in Parliament, and they did their Duties as Soldiers every day, as indeed my Lord of *Strafford* was careful of well exerciſing the Army as any General he ever ſaw; and there are forty Companies of the old ſtanding Army. Archb. C.

Being asked on my Lord of *Strafford*'s motion, Whether my Lord of *Strafford* did not declare he would not give Judgment in the Cauſe, but Appeal to them as a Suitor for Reparation.

He Anſwered, That my Lord of *Strafford* held them to the Point of the Articles, demanding Juſtice on the Articles; that he ſaid ſometimes, he would depend on our Judgment in it, and yet he would hold us to the Point of the Articles. And further, that if there were not a neceſſity of his being there, he would have withdrawn too. But my Lord would not give the Council a latitude to proceed according to the King's Letter for Reparation, but he held them to the Point of the Articles.

Being asked on my Lord of *Strafford*'s motion, Whether he did not tell my Lord *Mountnorris*, when he went out of the Room, that he would not ſpeak a word till he came into the Room again, and whether he did not do it accordingly; and whether he ſate bare all the while as a Party, and not as a Judge.

In anſwer, he deſired leave to offer to their Lordſhips, that he acquainted their Lordſhips before; that as ſoon as my Lord *Mountnorris* was withdrawn, my Lord did declare what he the Lord *Renula* had formerly ſaid. But after the Council fell into debate of it, he ſpake not a word, nor gave any interruption. And he cannot poſitively ſay, that he ſate bare all the while.

Being asked, Whether this was not in the time of full Peace, and whether any Rebels or Enemies were in the Kingdom.

He Anſwered, Certainly it was a time of very full and happy Peace.

To prove, that in diſcourſe concerning this the Sentence, my Lord ſaid afterwards, He would not loſe the Honour or Share of it. Mr. *Glyn*.

The Earl of *Corke* being asked to that purpoſe.

Anſwered, That all he can remember is, that the Sentence was publickly read in the *Star-Chamber*, and my Lord ſaid, He would not loſe his Share in the Honour of it, but he cannot remember the day. Earl of *Corke* a Witneſs.

Lord Viſcount *Dillon* asked to that purpoſe.

Anſwered, That he happened to be in the *Star-Chamber* that day, by my Lord of *Strafford*'s Command, and carried the Sword that day. That the reading of the Sentence he remembers not, but the words he heard, That the Sentence given againſt my Lord *Mountnorris*, by the Council of War, was a noble and juſt Sentence, and for his part he would not loſe his ſhare of the Honour of it.

The Commons proceeded to that part of the Charge, which concerns the execution of another Man by Martial Law.

William Caſtigatt Sworn, being asked ſeveral queſtions touching that part particularly, Whether he knew one executed by Martial Law, and by whom? *&c.* *William Caſtigatt* a Witneſs.

He

Article 5.

He Anſwered, Yes, his name was *Thomas Denewitt*, and it was laſt Summer was two years, that he was on the Green, when he was hanged, and they were born in the ſame Town: He ſaid, he knew not what Martial Law is, but he was hanged on one of the bows of a growing Tree, and he takes it my Lord of *Strafford* was preſent; he added, that all the Soldiers were there, and the Company; but knows not whether he was condemned by a Jury or no. And he heard that he was hanged for a quarter of Beef, that he, and ſome of the Company took away.

Lord *Dillon* a Witneſs.

Lord Viſcount *Dillon* being asked, If he knew of the Execution of the ſaid Perſon, whether he was condemned by Martial Law, and whether he was a Suitor to my Lady *Strafford*, and could not prevail?

He Anſwered, He did not know that Man by name that was hanged, but it was by Martial Law. And he, and another noble Lord that ſits here, were Suitors for him to my Lady, and ſhe told them, ſhe did endeavour, but could not prevail for a Pardon.

That it was a little before the 500 Men went to *Carliſle*, out of *Ireland*.

That he was not preſent at the Trial, but ſaw him hanged on the Green at *Dublin* on a Tree, and knows not his name; and he conceives the Provoſt-Marſhal, or the Provoſt-Marſhal's Son did Execution, for they were there both of them. That the Cauſe was double, as he heard, for which he was condemned; for flying from his Colours, and for ſtealing ſome Beef.

Patrick Gough a Witneſs.

Patrick Gough Sworn, and asked to the ſame purpoſe as before.

He Anſwered, That he remembers about the time of the 500 Soldiers ſending to *Carliſle*, and the Army in *Dublin*, this Man was executed by the Provoſt-Marſhal's Son, and on a Tree, and that time two other Soldiers were whipt. The voice of the Report was, He was hanged for a quarter of Beef, and running away from his Colours.

Lord *Rennla* asked what Anſwer was given, when a motion was made that this Man ſhould be tried at Law.

He Anſwered, That he was warned to come to a Marſhals Court, and the Meſſenger came ſo late, that he came not timely enough to give his Vote in the Court. That he came when the matter was fully heard, and having done his Duty to the Lord Deputy, ſate down behind the Chair. That there were ſome controverted Opinions concerning the condemnation of the Man. The Lord Deputy was pleaſed to deſire his Opinion, and ſtated the Evidence to him, as it appeared before the Court, which, to his remembrance, ſtood thus; The party was accuſed to have ſtollen ſome Beef; and charged to have run from his Colours, which was the reaſon of the parties being called thither, as he conceived. And it was thus, coming to his Lieutenant to demand his Pay (if he be not miſtaken, and if he be, he ſhould be glad to be certified by any,) the Officer ſaid, He had it not; then he deſired to be Diſcharged, Then go and be hanged, ſaid the Officer; and thereupon left his Colours, yet left his Muſket with his Corporal. That for the Beef, it ſeems the Fact was clear, that this was when a Regiment of Foot was to be tranſmitted to *Carliſle*, and were at *Dublin* attending their Tranſportation hence. That he the ſaid Lord *Rennla* was deſired to inform himſelf of the particular charged upon his going from his Colours. The thing in his excuſe was, The Officer's bidding him go

and

and be hanged, and leaving his Musket: That therefore he the Lord *Renula*, did the rather adviſe he ſhould be tried by the Law, than in that Court: That he doth not conceive the Sentence was made certain before he came in, and if he be not miſtaken, there is a Noble Peer of this Houſe ſate in that Council, and he is ſure, that he (the ſaid Peer) offered Reaſons why he ſhould not die for that Fact, for he heard him argue it ſo, and that is my Lord *Conway*. *Article* 5.

Lord *Conway* was Sworn, and asked his knowledge of this.

He Anſwered, That he hath been asked of this heretofore, and therefore is ſomething more in his memory than otherwiſe it would have been, for he had almoſt forgot it, and it is very imperfectly in memory. He remembers that he was at a Council of War in *Dublin*, that there was a Man condemned to be hanged, and that it was for ſuch a matter as their Lordſhips had heard ſpoken, more of it he doth not remember. Lord *Conway* a Witneſs.

And being further asked, Whether any Propoſition was made to my Lord of *Strafford*, to have the Man referred to a legal Trial, or the Execution deferred?

He Anſwered, He remembers it not.

And ſo they cloſed the Article, obſerving it to be fully proved in both parts of it, and that it makes good the general Article, of exerciſing a Tyrannical Government over His Majeſties Subjects.

The Earl of Strafford *began his Defence.*

I humbly conceive my Anſwer muſt be allowed me, if I prove clear of Treaſon, having been debarred of Witneſſes. E. of *Strafford's* Defence.

My Anſwer ſaith, That the Deputies have always exerciſed Martial Law in time of the Armies march, and divers Articles for regulating the Army printed, according to which divers have been put to death in Peace as well as War.

That the Lord *Mountnorris*, for breach of two of thoſe Articles, was proceeded againſt by 20 in number, and Sentence of Death pronounced, wherein I was no Judge; and I obtained from His Majeſty that no perſonal hurt befel him, but a few days Impriſonment.

If I had been queſtioned on my Life for Murder or Felony, I might in extremity have feared (perhaps) but certainly this can by no Law be made Treaſon, for which only I muſt anſwer, being a Crime of another nature.

I truſt this will appear no Crime, or ſuch a one as, I hope, His Majeſty will grant me a Pardon for, as He hath done to others.

I deſire to excuſe a Miſtake in my Anſwer, about the whole Armies being at *Dublin*, and I deſire in my Anſwer to have liberty to rectifie a miſtake.

I humbly deſire the Commiſſion may be read under the Broad-Seal, whereby I am made General of the Army, and Power derived to exerciſe Marſhal-Law, which was read, and this limitation is in it as to the exerciſe of Marſhal-Law, *Si opus fuerit*. And this I obſerve is according to the practiſe of all the World in Caſes of this nature.

That the Army in *Ireland* is a ſtanding Army, in the King's Pay, and hath, and always had Marſhals, Serjeants, Majors, Generals, Provoſt-Marſhals, and other Officers.

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Mr. *Glyn.* We admit that there is an Army in *Ireland* that is in Pay, and diſtributed in the Country, and hath Officers belonging to it.

E. of *Strafford.* The Generals there have from time to time ſet forth Orders in Print, for the Government of the Army, and the Officers of it, particularly my Lord *Wilmott*, whoſe Orders are here to be read.

Lord *Wilmott* a Witneſs. My Lord *Wilmott* being examined, confeſt there were Orders made for regulating the Army, that he had the Honour to be General four years, and that the Articles offered by my Lord of *Strafford*, and by him viewed, are atteſted under his Hand, for which he took Pattern from my Lord *Faulkland*, my Lord *Grandiſon*, and my Lord *Chicheſter*, and he did it by the Power he had the Honour to hold under His Majeſty as General: That yet he uſed them ſo ſparingly, that neither in that time, nor in the Government of *Munſter* (in which he had as large Authority as ever any Man had) he never did condemn a Man to death in peaceable times, and that the Authority hath been good. That Martial-Law is ſo frequent and ordinary in *Ireland*, that it is not to be denied, and ſo little offenſive there, that the Common Law takes no exception at it. That he hath lived to ſee three or four Parliaments there, and they never complained of it. And to Govern an Army without Martial-Law, is impoſſible, for occaſions, in an Army, riſe on a ſudden, and ſomething muſt be done on a ſudden for example-ſake to others.

That Martial-Law was certainly in *Ireland* ever ſince he remembers, and long before; but it hath been uſed ſo ſparingly, that in the time of Peace, for his part, he did never know any executed in his time.

Being asked on the Lord *Strafford*'s motion, Whether he hath known Sir *Charles Coote* as Provoſt-Martial of *Conaught*, and Sir *John Bower* Provoſt-Martial of *Leimſter*, in time of Peace, execute divers Perſons, Rebels, and others, by Martial-Law?

He Anſwered, for Sir *Charles Coote* he can very well anſwer, though he had Authority, yet it is out of his memory that he ever executed any. And for Sir *John Bower*, he dwelleth remote from him, that the ſaid Sir *John Bower* hath Authority, and ſo have many other Preſidents, Marſhalls of the Army, Provoſt-Marſhalls of every Province, and upon great Reaſons for it; for though they be inferior Men, yet the intent of their Commiſſion is but to proſecute thoſe Men that cannot be had into the Law, that is Rebels and Fugitives, and thoſe Men he hath heard have been hanged.

Whence my Lord of *Strafford* inferred, That he had done nothing *de Novo*.

That Provoſt-Marſhalls have been always appointed, and executed thoſe Places under the General for the time being.

The Committee admitted that there be four Provoſt-Marſhalls, but deny that they exerciſe Marſhal-Law.

E. of *Strafford.* That thoſe Provoſt-Marſhalls have executed divers Men to death by Martial-Law, Rebels and Traytors.

I deſire to produce an Order of my Lord of *Faulkland*'s taken from his Book of Entries; but being not proved, nor written with my Lord *Faulkland*'s own hand, the reading of it was not admitted, but left to their Lordſhips Conſideration.

To

Article 5

To prove the Practiſe of the Provoſt-Marſhalls.

Sir *Adam Loftus* being asked concerning the Provoſt-Marſhalls executing of Marſhall-Law before my *Lord* of *Strafford*'s time, and on what men.

He Anſwered, that it is moſt apparent, in all times, ſince he can remember, Martial-Law hath been executed, that's undoubted.

But it was on Rebels and Out-Laws, and he hath known no other, but ſuch, executed by Martial-Law.

Lord Robert Dillon being asked to the ſame purpoſe.

Anſwered, He hath heard the Provoſt-Marſhalls have taken and hanged men by Martial-Law in time of Peace, ſince the beginning of King *James*'s Reign, that of Rebels and Out-laws there is no queſtion.

My *Lord* of *Strafford* deſired to compare his Orders with thoſe of my *Lord* of *Willmott*'s.

And they were compared accordingly in divers Articles.

His *Lord*ſhip produced a Copy of His Majeſty's *Letter*, atteſted to be a true Copy by *Charles Gibſon*.

Which was read, being the *Letter* recited in the Sentence of my *Lord Mountnorris*.

I obſerve, That the Sentence of my *Lord Mountnorris* takes notice that the Army was part of it in motion, and divers Companies daily exerciſed, and that my ſelf was for the moſt part there preſent, which ſhews the truth of my Anſwer to that Point in part. E. of *Strafford.*

To free my ſelf from the ſaid Sentence, I deſire a Letter from my ſelf and Council of War to Secretary *Cook* 13 *December*, immediately after the Sentence may be read, to ſhew that I was a Suitor to the King in my Lord *Mountnorris*'s behalf.

But being after the Sentence, and written by himſelf and the Council of War, for extenuating of the Fact, the reading of it was over-ruled.

I conceive my Lord *Renula* and Lord *Dillon* made it appear, that I declined giving Judgment in the Sentence. E. of *Strafford.*

But for further proof, Sir *Robert Farrer* was asked, Whether my Lord of *Strafford* did not declare he would be no Judge, nor give Opinion in that Cauſe, and whether he ſate bare?

He Anſwered, That he was preſent at the Sentence, and heard my Lord of *Strafford* ſay, That he would give no Judgment, nor have to do with the buſineſs concerning my Lord *Mountnorris*, and he ſate a good time with his hat off.

Being asked on one of the Committees motion, touching his preſſing of both the Articles.

He ſaid, He acknowledged my Lord did require Judgment on both Articles, and yet ſate ſilent at the time they were upon the Sentence.

Being asked, Whether my Lord of *Strafford* did not deſire them to regard him no more than an ordinary Officer, and do no otherwiſe than in reaſon and judgment they ſhould think fit.

Article 3.

He Anſwered, my Lord of *Strafford* ſaid theſe very words, That they ſhould not look upon him, but go to the Cauſe according to their Opinion directly.

And being asked, Whether my Lord *Mountnorris* was a Captain of the Army.

He Anſwered, Yes, and the Council did admit it.

Sir *George Wentworth* being asked to the ſame purpoſe as Sir *Robert Farrer*.

He Anſwered, He was preſent at the Sentence, and heard my Lord of *Strafford* ſay publickly, He did not ſit there as a Judge, and that he would give no Vote in it.

Being asked, Whether my Lord of *Strafford* did not tell Sir *George Wentworth* that he ſhould give no Vote in it, becauſe he was his Lordſhips Brother?

He Anſwered, Yes, and he gave no Judgment upon that reaſon; that my Lord of *Strafford* did publickly bid them all look on him as a private Man, and ſate by as a Suitor, not as a Judge, and put off his Hat at the beginning to ſpeak, and ſate uncovered all the While, till Sentence was pronunced.

To ſhew that my Lord *Mountnorris* was enlarged by me preſently after, I here produce the Warrant Dated 18 *December*, though indeed he was releaſed 15 *December*.

The denial of my Lord *Mountnorris*, to examine Witneſſes, was by my Lord *Cromwell*, Sir *Charles Coote*, Sir *John Burlacy*, not by me, I ſitting by as a private party: For this I refer to my Lord *Mountnorris*'s own Depoſition, and my Lord *Renula*'s.

To prove it further, Sir *Robert Farrer* was asked touching the denying of further time and Council.

He Anſwered, He cannot tell who denyed him, he remembers my Lord *Cromwell* ſpake ſomething, but knows not whether to that effect.

Sir *Robert Farrer* a Witneſs.

Sir *Robert Farrer* being asked on one of the Managers motion, Whether before their coming together they did know the occaſion of their meeting?

He Anſwered, He did not, he was warned to attend, and did not know the buſineſs till he came thither.

E. of *Strafford*.

I did never Communicate it to any Man, till I brought the Letter, becauſe I was reſolved to ſpeak of it to no Man living; and in concluſion, left it wholly to the Council.

For the words, That I would not loſe my ſhare in the Honour of that Sentence; if I ſpake the words, I meant the Juſtice and ſatisfaction done me by that Sentence, being by the prime Officers of the Kingdom.

And whereas it was ſaid yeſterday, that though I thought it hard to lay words to my Charge, yet I thought it not hard to lay words to the Lord *Mountnorris*'s Charge; there is a difference between laying words to a Man's Charge, to Accuſe and Condemn him of High-Treaſon, to loſs of Eſtate, Life, Honour and Poſterity, and preſſing words to only two days Impriſonment, being only intended to diſcipline my Lord *Mountnorris*, and teach him to govern his Speech with more modeſty.

His

Article 5.

His Defence to the buſineſs of Denwitt's *Execution.*

He confeſſes his Vote concurred, and thinks he had Authority, and may juſtifie it.

He produced the Sentence Dated 13 *February*, 1638. where his Crimes are ſet forth to be the fellonious ſtealing of a quarter of Beef, and running away from his Colours, in breach of the *9th* and *6th* Articles, for which he was Sentenced to Death, according to the uſe of Martial-Law. F. of *Strafford.*

His Lordſhip opened the Nature of the Offence, being committed at a time when the 500 men were attending to go to *Carliſle*; and the Example might be dangerous, and deſired Sir *George Mountnorris* might be asked, Whether *Denwitt* was not convicted to be guilty, adding, that he had been burnt in the hand; and running from his Colours is death by the Laws of *Ireland.*

He produced a Statute of *Ireland*, 20 *H.* 6. *C.* 19. whereby it is Enacted, That every man that receives the King's Wages, and departs from his Captain, *&c.* ſhall be proceeded againſt as a Felon.

As alſo the Statute 7 *H.* 7. *C.* 1. The departing of a Soldier from his Colours is Felony, and the Offendor to undergo puniſhment of Law. And 10 *H.* 7. all Laws formerly made in *England* are to be in force in *Ireland*, and ſo that of 7 *H.* 7. For further clearing whereof, he refers himſelf to the Council.

One of the Managers did make Reply in ſubſtance as followeth: Mr. *Glyn.*

That if this Fact be not Treaſon, yet it ſeems to prove his Intention to ſubvert the Law, which is Treaſon.

Whereas he hopes for the King's Mercy, ſo the Commons do as really truſt for the King's Juſtice.

The Commiſſion he inſiſts on, is limited with *Si opus fuerit*; and the King intends Execution according to Law, *Magna Charta*, and the reſt of the Laws of *England* being of force in *Ireland.*

There hath been an Army in Pay in *Ireland* ſince *Henry* the VIII's time, and ſo there are ſome in Pay here, in *Portſmouth* and *Plymouth*, and yet it follows not *England* muſt be Governed by Martial-Law.

The Lord *Wilmott* was produced by him, to juſtifie the publiſhing of Orders, and exerciſe of Martial-Law in *Ireland.* But we Appeal to your Lordſhips, Whether he gave Teſtimony of executing any by Martial-Law.

Sir *Adam Loftus* ſays, There are Provoſt-Marſhalls, and they do uſe to put men to death, but they are Rebels whom they execute, which ſquares not with this Caſe, only that of Sir *Thomas Waneman* is a full Preſident.

For the King's Letter, it is written on his Information, and if the King's Miniſters miſ-inform him, He is juſt before God and men; and the Letter directs Reparation, as it was fit there ſhould be.

My Lord pretends he was no Judge in the Cauſe, your Lordſhips may remember who procured the Letter to proceed, and who ſate there to manage the buſineſs, though he ſate with his Hat off; if he would have been indifferent, he ſhould have left the Counſellors to themſelves.

And

Article 5.

And when ſome moved they might proceed on one Article, he cryed both, and ſo he was the procurer of the Sentence, with which he is charged, not with the Voting of it.

He pretends he ſate by and ſaid nothing, yet no Man talked more at the Sentence than himſelf.

He proves not the Courſe of Martial-Law, and there is a Judge-Marſhal, to whom, in any proceedings in a Martial way, addreſs ſhould be made, and it was deſired he might be called, to teſtifie how they went about it.

Mr. *Maynard.*

Another of the Managers did add, by way of Reply, That whereas my Lord of *Strafford* inſiſts much, as if Martial-Law were part of the ſame Law of *Ireland*, but the 25 *E.* 3. is in force there, and that is recited in the Petition of Right in force here, as the ground why Martial-Law ought not to be in *England*, and therefore there is the ſame ground why it ſhould not be in *Ireland*.

For that Commiſſion he ſpeaks of *Opus eſt*, is Martial-Law, when there is *bellum flagrans*; but what need is there of Martial-Law in my Lord *Mountnorris*'s Caſe, when he would rather loſe his Hand than the Sentence be executed.

For the Orders made by my Lord *Wilmott* and others, there is difference between making an Order in way of terror, for fear of Execution, and putting that thing in execution.

Many Witneſſes are produced to prove the practiſe, but not one ſpeaks in point of Execution, unleſs upon Rebels and Traytors, and ſuch as would not come into Law, whereas my Lord *Mountnorris* was had into the Law.

Whereas he takes the Example of thoſe before him; the Commons cannot ſee the Reſtrictions put upon his Commiſſion for Martial-Law, but in the preceding Deputy's time there was a limitation, that the Provoſt ſhould leave the Soldiers to Trial at Law, except in time of War and Rebellion.

The Statute of 20 *H.* 6. is againſt him, for it makes the Soldiers running from his Colours Felony, and certainly meant it ſhould be Tryed by that Law that makes it Felony, which would have given him the benefit of Clergy not by Martial-Law.

And though he thinks he may juſtifie it, he falls at laſt to a Pardon.

He ſays, He acquainted no body before-hand with the buſineſs; but if he may give the Interpretation, he will be ſure to put a good end to it; if he would not prepare the Council for Juſtice, why ſhould not the Delinquent be prepared?

The words are pretended to be ſpoken in *April*, my Lord of *Strafford* procures the King's Letter in *July*, and queſtions it not till *December*, here is no *Opus eſt*.

The very words of the Order, the Witneſſes were examined by our Command, which make it his own.

Mr. *Maynard.*

One of the Managers deſired that two of the Inſtructions of former Deputies might be read.

To this my Lord of *Strafford* excepted, as ſupplemental and dangerous, and not warranted by any other Judicature.

After

Article 5.

After ſome debate touching the admitting of my *Lord* of *Ely* to be examined, to the Courſe of Martial-Laws in *Ireland*, being new matter, ariſing out of his Anſwer; it was Reſolved that he ſhould be examined only to that new matter.

Earl of *Ely* a Witneſs.

The Earl of *Ely* Sworn, was examined what was the proceedings of the Marſhalls Court when he was Judge-Marſhall, and how long he had been ſo?

He Anſwered, He was 40 years ſince Judge there, and for the manner of proceeding, there was never any Deputy, or Governor of that Kingdom, but they had a Commiſſion of Martial-Law to be exerciſed in the time of their Government; but the exerciſe of that Law was two-fold, one was Summary, the other was Plenary: That which was Summary and ſhort, was committed to the Provoſt-Marſhall, that ſought after the Rebels and Kernes that kept the Woods.

Theſe, when they were apprehended, the Provoſt-Marſhall hanged them on the next Tree; and this was in poor Caſes, where the eſtate of the party that proſecutes is not worth 40 *s.* In the ſecond, which is the Plenary proceeding, there are three Conſiderations to be had, of the time, the place, and the Perſon; the time muſt neceſſarily be in time of War, the place in the Field, and the perſons muſt be ſuch as are ſubject to the Rule of Martial-Law. And the proceeding was thus; The parties complained, the other appearing, an Information was drawn in writing, Witneſſes produced, and reduced in writing, a Sentence given abſolutely or condemnatory, and the Party puniſhed or acquitted, and the Warrant directed to the Provoſt-Marſhall to put the Judgment in Execution. But when the Army was diſſolved, and every one returned to their own home, Soldiers, Captains, and Commanders; this Power ceaſed, and was no farther executed; for it had been an extraordinary damage to His Majeſty, that by the Martial-Law every one ſhould be tried; for he loſes nothing but his life, not his Land or his Goods, and therefore the proceeding without was ſo ſlow and ſeldom, that he had not remembred any Man of quality worth 100 *l.* or 200 *l.* in thirty years to have been executed by Martial-Law.

Mr. *Maynard.*

Here the Manager did offer the Inſtructions given in my Lord *Faulkland*'s time, which Mr. *Fitz-Gerard* teſtified to be by him examined with the Original in the Signet-Office, as to the 33, and 34*th* Articles. Part of the Inſtructions were read, *viz.*

33. *Such as are to be brought to Trial at Law, are not to be executed by the Marſhall, except in time of War and Rebellion.*

Mr. *Maynard.*

One of the Managers obſerved, That my Lord of *Strafford* would have Power of Martial-Law over my Lord *Mountnorris*, but would not execute him; which ſhews he deſires not Blood ſo much as Power of Blood; that the Law of all the Peers might be under his Girdle, and he beſought their Lordſhips to conſider it.

Whereas, he ſaid, the Blood of their Lordſhips Anceſtors was ſpent in the *Iriſh* Wars; this way, their own Blood may be ſpent in the Peace of *Ireland*, and Peace of *England*, *&c.*

My

Article 5. My Lord of *Strafford* taking notice of ſome words, charging him that my Lord *Mountnorris* loſt his Offices in that Sentence; In way of Anſwer ſaid, That they were loſt in a Sentence in the *Caſtle-Chamber* for Miſdemeanors fully proved, and by himſelf confeſſed, and therefore His Majeſty diſpoſed of them.

To which one of the Managers Replyed, That there was no Sentence in the *Caſtle-Chamber* againſt him.

And ſo after ſome Diſcourſes and Reſolution touching the Method of the Proceedings about the next Articles, the Houſe was Adjourned.

The

The First day.

Monday, March 29, 1641.

THE Sixth Article.

The Charge.

Article 6. That the ſaid Earl of Strafford, without any Legal Proceedings and upon a Paper-Petition of Richard Rolſtone, did cauſe the ſaid Lord Mountnorris to be diſſeiſed, and put out of Poſſeſſion of his Freehold and Inheritance of his Manor of Tymore in the County of Armath, in the Kingdom of Ireland, the ſaid Lord Mountnorris having been 18 years before in quiet poſſeſſion thereof.

Mr. *Glyn*. MR. *Glyn* opened the Sixth Article, ſetting forth the Execution of an Arbitrary Power by the Earl of *Strafford*, contrary to *Law*, in point of the Eſtates of His Majeſty's Subjects, by diſſeizing and putting the *Lord Mountnorris*, a Peer, out of Poſſeſſion of *Lands* of 200*l.* a year, which he had poſſeſſed 18 years before, on a Paper-petition, without any Rules of Juſtice, during the ſaid Lord *Mountnorris*'s Impriſonment, contrary to an Act of Parliament read the other day, to King *James*'s Inſtructions, to the Directions of His Majeſty's Proclamation, and the Rules of proceeding in the Kingdom of *Ireland*.

The Decree made in the Cauſe betwixt *Rolſtone* and my Lord *Mountnorris* was firſt offered, the Manager obſerving, that it was nothing to the matter, whether the Decree were juſt or unjuſt, and that it never depended in the Chancery, as is ſet forth in his Anſwer.

Thomas Little a Witneſs. *Thomas Little*, the Lord of *Strafford*'s Secretary, being Sworn, atteſted that the Copy produced was under his own hand.

Article 6.

E. of *Strafford.* And here my *Lord* of *Strafford* informed their *Lordſhips*, that upon his Defence he would ask Mr. *Little* ſome queſtions, deſiring their *Lordſhips* to remember that he is upon his Oath.

The Decree was read Dated 28 *July*, 1637. whereby for the Reaſons therein ſet forth, and with the aſſiſtance of the *Lord* Chief Juſtice of the Common Pleas; It was, among other things, Ordered, That *Henry Rolſtone* ſhould be put into quiet Poſſeſſion of certain *Lands* therein mentioned.

Lord *Mountnorris* a Witneſs. *Lord Mountnorris* being Examined, Whether he was put out of Poſſeſſion by Virtue of that Order, and how long he had Poſſeſſion of the *Lands*?

He Anſwered, He was in quiet and peaceable Poſſeſſion from *May* 20, till he was put out by my Lord of *Strafford*'s Warrant, *Auguſt* 29, 1637, as was written to him from an Agent that was there from the delivery of the Warrant to the Sheriff. That he was all the while the buſineſs was in proſecution, till his coming into *England*, a little before his putting out of Poſſeſſion, in Priſon, under reſtraint, for not ſuing out his Pardon, upon the Sentence of the Council of War.

Mr. *Anſlow* a Witneſs. Mr. *Anſlow* Sworn and interrogated to the ſame purpoſe.

Anſwered, That to my *Lord Mountnorris*'s poſſeſſion of the *Lands*, he can ſay only by ſeeing the Accounts paſſed by former Receivers, and the Patent my *Lord Mountnorris* had of the *Land*; but for his being put out of the poſſeſſion by the Order, he found when he was left in *Ireland*, about a year and half ago he was put out of poſſeſſion by an Order of my *Lord* of *Strafford*, and that he being there, could have no Rents paid, *Henry Rolſton*'s Son being in poſſeſſion, the Father being dead.

Being asked, Whether a petition was not preferred for liberty to proceed at *Law*.

He Anſwered, It was in his own behalf, for the *Land* was eſtated on him by his Father: And that he the Deponent being to paſs his *Land* on the Commiſſion of Grace, *Rolſton* Petitioned for it himſelf; and therefore he the Deponent Petitioned it might be hindred to paſs, and that he might have his Right tried legally, but he could get no Anſwer; the Commiſſioners ſaying, They ſate not there to queſtion any *Lord*'s Eſtate.

Mr. *Glyn.* The Manager obſerved this to be the aſſuming of an Arbitrary Power of Juriſdiction, in a caſe of Land, without any former Preſident; wherein, if he be juſtifiable, he may as well, riding on the Highway, determine any man's Eſtate; and added, That if my *Lord* of *Strafford* inſiſt on this, they ſhall prove it not only in this, but in twenty more of this condition on the Reply.

E. of *Strafford.* My *Lord* of *Strafford* deſiring they might bring their Proofs at once.

Mr. *Glyn.* The Manager Anſwered, That they ſhould prove an Act of the ſame Nature, but of a higher ſtrain, concerning a Peer of the Realm (for he chaſed ſuch *Lions*.

E. of *Strafford.* But my *Lord* of *Strafford* deſiring they might be kept to that within the Charge.

His

Article.6.

His Lordſhip began his Defence in ſubſtance as followeth:

E. of *Strafford.*

I confeſs I am Charged with Treaſon by the Honourable Houſe of Commons, and that is my greateſt grief; for if it were not an Arrow ſent out of that Quiver, it would not be ſo very heavy as it is, but as it comes from them it pierces my heart through; not with Guilt, yet with Grief, that in my Grey Hairs I ſhould be miſ-underſtood by the Companions of my Youth, with whom I have formerly ſpent ſo much time.

If the Deeree be juſt (as it is moſt juſt) I hope it will go very far in the Caſe.

That whereas it is ſaid it was againſt a Peer, Juſtice excepts not perſons, and I know no Priviledge Peers have in point of poſſeſſion of Land above common perſons.

The Act of Parliament read the other day, againſt which, it is ſuppoſed to be made, I conceive it to be the Statute in *H.* 6. time, and deſire your Lordſhips to remember, that by the laſt words, the King's Prerogative is ſaved.

I have done nothing contrary to the Inſtructions in King *James* his time, nor the Proclamation, nor any thing, but according to the Power of former Deputies,

I acknowledge my Anſwer is miſtaken, in ſaying, the Cauſe depended formerly in the Chancery, which was not out of cuning, but a meer failing of memory.

I deſire my Commiſſion may be read, whereby it will appear I had Power to do that for which I am now queſtioned.

The Commiſſion was read, whereby he had Authority to proceed *Secundum conſuetudines terræ, &c.*

From whence he obſerved, That having ſo great a Power, the receiving of a Petition, and giving Relief to a poor body, ſhould not be ſo great a fault, being at the moſt, but the exceeding of a Juriſdiction, but by no Conſtruction can be made Treaſon.

That yet this is no exceeding of a Juriſdiction, but was a Power always in the Deputies before his time, and warranted.

To prove it, he produced the printed Inſtructions, whereby the Deputy and Council-Table are forbid to meddle with common buſineſſes within Cognizance of ordinary Courts, nor alter poſſeſſion of Land, nor make private Orders, or Hearings, nor make Injunctions, for ſtaying Suits in any Civil Cauſe.

Which ſhews, that that courſe was in Practice before the Inſtructions took it away, (*viz.*) to alter Poſſeſſions, to grant Injunctions, *&c.* to prove by Witneſſes, that this Power was always exerciſed by the Deputy in the natue of a Court of Requeſts in *England.*

He offered my Lord *Primate* of *Armagh* his Depoſition being taken, by reaſon of his ſickneſs, by vertue of an Order of their Lordſhips; but for that the Commons had Liberty by that Order to croſs-examine, and yet had no notice thereof, or of the Depoſitions ſo taken; the uſing of theſe Depoſitions was waved, after much debate, till the next day, in the mean time the Commons may croſs-examine.

Article 6.

Henry Dillon asked, Whether Petitions have been uſually preferred to the Deputies, and in how many Governours time he hath known it to be ſo, That theſe Paper-Petitions have been preferred.

He Anſwered, His Father had a Leaſe during his own Life and his Wives, and the longer liver of them, and fifteen years after to his Executors and Adminiſtrators, which he the ſaid *Henry Dillon* (being come to full Age) enquired into; and looking upon his Fathers Evidences, he found a buſineſs there depending between Sir *Patrick* Plaintiff, and his Father Defendant, before my Lord *Chicheſter*, in the time of his Government; and he found ſeveral Orders under my Lord *Chicheſter's*, Hand in that Cauſe, that he being Executor to *Maurice Fitzgerard*, and having occaſion to peruſe his Writings, to ſee what Depts were due to him, he found amongſt them ſeveral Orders of my Lord *Grandiſon's* time, one Petition of *Fitzgerard*, as well for Depts as for Land. That in the time of my Lord *Faulkland* he obſerved, and hath ſeen ſeveral Orders made by his Lordſhip, and one made on behalf of his Siſter *Mary Dillon*, for a Portion paid by his Father, and he recovered the Portion, and received the Money.

That in the time of my Lord of *Corke* and Lord of *Ely's* being Governors, there was a Petition preferred againſt him, by my Lord of *Longford*, for a Horſe taken by him the ſaid *Henry Dillon*, as Sheriff of the County of *Longford*, pretending it to be a ſtray, and belonging to His Majeſty, and triable, as he conceived, in the Exchequer, and that he did appear, but my Lord of *Longford* died before Examination.

Being asked, Whether the Cauſes were before the Deputy alone, or the Deputy and Council.

He Anſwered, That in the time of my Lord *Chicheſter*, he knows not whether they were before the Deputy alone, but he found only my Lord *Chicheſter's* Hand to the Orders. In my Lord *Grandiſon's* time he ſaw his Hand only, but where the Cauſes depended he knows not.

But that in my Lord *Faulkland's* time, was only by my Lord Deputy: That of my Lord *Corkes* and Lord of *Eyles*, he remembers not whether it was before their Lordſhips and the Council; but the way he was called to Anſwer was by Purſevant, before he had notice of the Suit.

Being asked, Whether Examinations were taken.

He Anſwered, That in the Caſe of his Siſter, he conceives there were Examinations taken upon Oath.

And that in the Cauſe before my Lord of *Corke* and Lord of *Ely*, the Attachment was under the Hands of the two Lord Juſtices alone.

Being asked on the Managers motion, Whether he hath any of thoſe Orders to ſhew.

He Anſwered, He knows not whether thoſe in my Lord *Chicheſter's* time were delivered to my Lord *Dun*, on compoſing the Difference, or in his Cuſtody.

Robert Lord *Dillon* was asked, What he heard my Lord *Grandiſon* ſay in maintenance of this Judicature by my Lord-Deputy alone.

He

He Anſwered, That he heard my *Lord Grandiſon* himſelf ſay nothing of it, but he heard by others, that he pretended to it as a Judicature belonging to the Sword. *Article 6.*

Being asked what he hath known of the practice of this Court before the Lord Deputy alone, before how many Deputies; and upon what occaſions.

He Anſwered, That he hath ſeen divers Orders of Deputies, or Petitions, ſingly ſigned by themſelves, and no other hand but the Deputies.

Being asked in how many Deputies time;

He Anſwered, That he hath ſeen of my *Lord Faulkland*, and *Lord Grandiſons*, and to his beſt remembrance (but he will not peremptorily ſay it) of my *Lord Chicheſters*.

Being asked of the Earl of *Bathes* motion, Whether he hath known them to proceed upon Petition for matters of *Land*.

He Anſwered, he never knew any.

Being asked on Mr. *Maynard's* motion, Whether they were Orders of Reference, or by conſent;

He Anſwered, he remembers one more particularly, and it was an Order of my *Lord* of *Faulklands*, of reference to my *Lord Angire*, that was Maſter of the Rolls; and was for a Debt.

Being asked on my *Lord* of *Straffords* motion, whether Sir *Paul Davis* Clerk of the Council, do not ordinarily examine on Oath; and thereupon Cauſes come to publication.

He Anſwered, the Clerk of the Council hath a Commiſſion for taking Oath, and whereſoever the Deputy requires, he is to take Oath; but whether *de facto* he took Oath on thoſe former Orders, he remembers not. And whether he takes Oath in things determined by the Deputy alone, he know nothing of it. But it is the Common courſe of proceedings, when there is an Order for an Attachment, an Oath is taken of courſe, that the party is in contempt.

Being asked on Mr. *Whitlock's* motions, how anciently Commiſſion hath been granted to the Clerk of the Council to take an Oath.

He Anſwered, He doth not know; but knoweth, that ſince he had the Honour to ſit at the Board, they have had them, and that is 12 or 13 years.

Being asked whether he hath known in matters of Equity, or Title of Land, any determination by any other Deputy alone; and whether my Lord of *Strafford* hath not done it in many Caſes:

He Anſwered to the firſt, That he doth not remember any particular Caſe of it: To the ſecond, That he never knew my Lord of *Strafford*, with his Remembrance, meddle with matters of Laws; but for matters of Equity, to his Remembrance he hath.

And this my Lord of *Strafford* confeſſed, this being in the Court of Requeſts is to the *Chancery*.

To prove that the Clerks of the Council have Power to examine on Oath, an Order was read to the Lord Chancellor from the Lord *Faulkland*, for drawing up a Commiſſion to enable Sir *William Uſher* for taking *Affidavits*, and miniſtring Oaths in all Cauſes wherein the Lord Deputy or the Board, *&c.*

His

Article 6.

E. of *Strafford.* His Lordſhip came to ſhew that the Inſtructions were ſo much miſtaken that they were never obſerved by the Deputy, Judges of Aſſize, Preſidents of Provincial, *&c.* nor could the poor *Iriſh* be debarred from remedy on Petitions, without occaſioning an univerial out-cry, being not acquainted with Legal forms, and beggerly; and the man that came againſt my Lord *Mountnorris*, was *in forma Pauperis.*

To prove this, my Lord of *Strafford*'s Book of Entries was mentioned, and an Order of my Lord *Faulklands* made in *June* 1629. which is after, the Inſtructions being in 1622. and being affirmed by my Lord *Wilmott* to be under my Lord *Faulklands* hand, it was read:

Containing a Petition, which ſet forth the Petitioners diſturbance in his Poſſeſſion of certain Lands by Sir *James Fitzgerard* contrary to a former Order; and aſſaulting and beating the Petitioner and his Tenants, *&c.*

And my Lord of *Faulkland*'s Warrant thereupon for Sir *James* his appearence, to Anſwer the Contempt; and for the Sheriffs keeping the Petitioner in poſſeſſion.

He produced another Order of my Lord of *Faulkland*, *Auguſt* 20, 1626. being for Attaching divers perſons that had not paid Proviſions for the Deputies Houſhould.

He produced another Order made on *Walter Dennotts* Petition, *October* 1624. for directions to certain Deptors to pay ſome moneys due.

Being a Warrant to examine the truth of the Plaintiffs demands; and a Command to the Deptors to pay what's due, or give better Security, elſe to appear, to ſhew cauſe to the contrary; the ſame being grounded upon Letters out of *England* in the Petitioners behalf.

He produced an Order of my Lord of *Corke*, and Lord of *Ely*, affirmed by the *Lord Corke* to be under his hand, on Petition of *Henry Jawant:* The Orderr being a Reference to the Lord Primate; and to take Order for the Petitioners Relief, as by a former Order of Reference was directed.

E. of *Strafford.* And whereas it may me objected that theſe were in Church Cauſes, or Plantation Cauſes, His Lordſhip obſerved, That theſe Orders were made by the Deputy and Juſtices alone, without the Council, though by the Inſtructions, the Deputy ought not to meddle with ſuch Cauſes without the Council.

He then offered to ſhew, that this Practice of hearing buſineſs on Paper Petitions, is uſed by the Preſidents in their Provincial Courts, and by the Judges in their Circuits, by Commiſſions from the Deputy; whence his Lordſhip obſerved, That if the Deupties have Power to Authorize, they have likewiſe Power to Execute; and he offered to this purpoſe, my Lord *Ranulagh*'s Anſwer at Council-Board, under Mr. *Mewtis* his hand.

Mr. Glyn. Here the Manager obſreved, That my Lord of *Strafford* is charged with Exorbitant uſing of the Law, and cannot be juſtified with others breaking of the Law; beſides, it is neither in the Charge, nor in his Anſwer.

My

Article 6.

My Lord of *Strafford* anſwered, That he offered this only to ſhew, that he is no Innovator of the Law, further than others before him; and to ſhew that the Inſtructions were miſtaken in that point, and could not be obſerved, nor can they without much detriment to the Commonwealth, yea that they have broken them, and that he only hath obſerved them.

And ſo this matter was laid aſide, as not fully pertinent to the Charge.

E. of *Strafford*

His Lordſhip in the next place obſerved, That as the Caſe ſtands with the Government and People of *Ireland*, there is a neceſſity that this Power that hath been thus at all times in the Deputies, ſhould ſtill remain there, for relief of the poorer ſort of People, who are not able to undergo the long Circuit of Legal Proceedings, nor are acquainted with them; and muſt be drawn to it by degrees; and that the Plantiff in this Cauſe was a Suitor *in forma pauperis*; That it is a great aſſiſtance to the Merchants, where they may recover their Debts ſuddenly, and not loſe their occaſions, and their benefit by increaſe of Trade; That ſome Reports being raiſed, as if he had neglected the poorer ſort of People, and not given Redreſs as former Deputies have done, he advertiſed it over to His Majeſty, and fully informed him of the Proceedings and Inſtructions, and deſired His Majeſty's Pleaſure; which was declared by a Letter under his Majeſty's Signet, received *October* 6. the Ninth year of the King, and to himſelf directed, which was read; Wherein recital is made of the Inſtructions 1622. and particularly in the point of Judicature by the Deputies, That it is neceſſary to uphold ſuch Power, eſpecially for relief of the poorer ſort there, as formerly had been uſed; And Power is thereby to him given, (notwithſtanding any former Directions, Proclamation, or Reſtraint) to hear and determine ſuch Cauſes as ſhall be brought before him, according to the power of former Deputies, yet not to meddle with Titles of Free-hold, except in Caſes of Equity; but to refer Title of Free-hold to its proper Judicature, and not to hear Cauſes where there is Priority in other Courts, unleſs in caſe of Appeal for lack of Juſtice, after due Obedience: Power likewiſe (the ſaid Rules obſerved) to call before him any Perſon complained of, and therein to make ſuch Order and Decree as ſhall ſtand with Juſtice, and to cauſe the ſame to be put in Execution. Dated *October* 5. 9. *Car.*

He then offered the firſt Decree in the Cauſe to be read, that had formerly been read, having relation to this, bearing date *May* 23, 1636.

And the ſame was read, being Signed *Wentworth. Gerard Lowther.*

E. of *Strafford.*

Whence his Lordſhip obſerved, That the Order was made for Relief of a poor Man, where my Lord of *Mountnorris* had by Violence, and extream hard preſſure, poſſeſt himſelf of Lands worth 200 *l.* a year, never paying out of his Purſe above 30 *l.* the reſt ariſing on a Letter procured for Sawing-Mills, and by intereſt at above 20 in the hundred; wherein his Lordſhip had the Aſſiſtance of two Reverend and Learned Judges, the Chancellor that now is, and Sir *Gerard Lowther*, That the Decree is in every part juſt and equitable; and if he had not given relief he had been juſtly cenſured, that the party is now in Town, and means to complain, and Sue for 600 *l.* more than he is yet allowed.

The

Article 6.

The Committee declared, they inſiſt not on the merit of the Cauſe, as not being material.

And ſo my Lord of *Strafford* obſerved, That he ſtands juſtified by the King's Letter, which makes things differ from what they did formerly, and ſhew, that the Power was there before, and is now reſtored.

His Lordſhip further added, that his Practice in exerciſing Juriſdiction, was conformable to that Letter, *viz.* That he medled not with Title of Land triable at Law, nor with Cauſes which had priority of Suit in other Courts; That he referred the buſineſs of the Provincial Courts to theſe Courts, and many buſineſſes to the Judges of Aſſize, and none determined by him, but upon full Hearing, and Aſſiſtance of the Judges.

And whereas it is ſaid, my *Lord Mountnorris* was kept in Priſon by reaſon of not Suing out the Pardon on his Sentence pronounced by the Council of War, I will make it appear it was for Contempts, in refuſing to anſwer a Bill Exhibited againſt him on the King's behalf, in the *Caſtle-Chamber*.

Mr. *Slingsby* being asked touching that point;

Anſwered. That he did conſtantly wait on my *Lord* to the *Caſtle-Chamber*, and there heard the Information of the King's Attorney againſt my Lord *Mountnorris* read, and my Lord *Mountnorris* was called to Anſwer it ſeveral times, and was committed to Priſon for not Anſwering it; but he cannot preciſely ſpeak to the time, but he thinks he was left in Priſon upon that, till my Lord's going into *England*.

Sir *Adam Loftus* asked touching the ſame point, did firſt make his humble Suit that he might not be Examined in any Cauſe concerning my Lord *Mountnorris*, for ſome reaſons inducing him thereunto.

Which my *Lord* of *Strafford* ſaid was, becauſe Sir *Adam* ſucceeded my *Lord Mountnorris* in the place of Vice-Treaſurer; and being required (if that were all) to ſpeak notwithſtanding:

He Anſwered, That he conceives he was Committed for not anſwering the Information; but the preciſe day of his Commitment, and the time how long, he cannot well remember.

Being asked, Whether he was not brought before the Deputy a day or two before he came away, and refuſed to Anſwer, and was thereupon Committed?

He Anſwered, That it was true.

Being asked on the Managers motion, Whether he was not Committed on the old Sentence, and remained in Priſon on that?

He Anſwered, That he doth not know.

E. of *Strafford.* If I had time to produce the Orders of the *Caſtle-Chamber*, I could make it appear when my Lord *Mountnorris* was Committed, and how long he continued ſo; but he was Committed for that Contempt, and remained Committed ſix Months, I think, before he would Anſwer; which I would not ſpeak if it were not true.

The *Lord Dillon* called, and asked to the ſame purpoſe:

He Anſwered, That the Judges of the *Caſtle-Chamber* are by Commiſſion, and that he is not of that Commiſſion. That the Deputy, or Chief

Chief Governour, calls by way of Aſſiſtance, ſuch as he pleaſes. That he heard at Council-Board, my Lord *Mountnorris* was Committed for a Contempt, in not anſwering in the *Star-Chamber*; but when it began, or how long, he knows not. *Article 6.*

In Execution of this Juriſdiction, I had no private advantage to my ſelf, nothing but trouble was gained by it, no new thing was done, but ſuch as was formerly by all the Chief Governors there; and ſuch as I had ſpecial Warrant for from His Majeſty. I have obſerved the Rules that guide others in *Chancery*, and other Courts of Equity, and the Judges in their Circuits: Therefore it can be no Subverſion of the Laws; for the ſame thing done by others have been Legally done, it differs only in reſpect of place, being before my ſelf; and ſo cannot be Treaſon: And though it might be Illegal here, yet it is according to the Laws and Cuſtoms of *Ireland*, by which I am to be judged for all things there done. And the ſame is done by the Preſidents of the *North*, and of *Wales*; who did familiarly receive Petitions from Poor People that cannot ſeek remedy by a Legal courſe; and yet it is not Treaſon in *England*: And it cannot ſink into my underſtanding, how the enlargement of a Juriſdiction ſhould be ſtrained to High Treaſon; ſpecially being warranted by ancient Practice, and modern Authority, being only according to the nature of a Court of Requeſts, and not entrenching on the Juriſdiction of Law Courts. And ſo I hope this will never riſe up in Judgment againſt me as Treaſon, either in it ſelf, or by way of Application. E. of *Strafford.*

The Manager began his Reply, in ſubſtance as followeth:

Whereas my Lord of *Strafford* ſays, This is not Treaſon; this is the burden of his Song: but this is one of the particulars that prove his deſign to ſubvert the fundamental Laws of both Kingdoms; He will not acknowledge a cumulative Treaſon, he muſt have a Treaſon over Shooes and Boots; yet if he will look on it altogether, he ſhall ſee the horridneſs of it, and it will prove as great a Treaſon as ever was preſented to a Houſe of Parliament. Mr. *Glyn.*

The Manager opened the Article, and ſaid, they diſpute not whether if it had been done in *Chancery*, or other Courts, it had been well done; but it is done by him without Rule of Law; and hereupon he hath drawn to himſelf an Arbitrary Power. Mr. *Glyn.*

Whereas my Lord of *Strafford*, to take from himſelf the Act of Parliament 28 *H.* 6. enjoyning, That Cauſes ſhould be referred to the proper Courts, urged the laſt words, [Saving the King's Prerogative] We do obſerve, That when he is Charged with an Exorbitant proceeding, to the deſtruction of the Law; he flies to the King's Prerogative for ſhelter.

That to mention the King's Prerogative in the face of the Peers of the Realm, and in preſence of all the Commons, when he is charged with an Exorbitant proceeding, to the Subverſion of the Laws, is but to caſt a Scandal upon the King's Prerogative, and to make it have a worſe reliſh; whereas the Law ſupports the King's Prerogative, and the Subject ſupports it.

When his Anſwer is charged not to be according to Truth, he caſts a Gloſs upon it, from the eaſineſs of his being miſtaken; whereas, when he

Article 6. is able to juſtifie it, he glories in it, as that whereto he muſt ſtand or fall.

That the Letters Patents which my Lord of *Strafford* produces, riſe in Judgment againſt him; for the King hath truſted him *ad cuſtodiendas leges Regni*, and therefore if he hath broken through them, he hath broken his Truſt.

He ſays, It is ſtrange the exceeding of Juriſdiction ſhould be laid to his charge as Treaſon; He is charged with the Subverting of the Law, and that's more than the Exceeding of a Power. He read the Inſtructions to warrant his Act; and by theſe the Commons deſire to be judged, whether they do not in the Negative ſay, there ſhall be no ſuch Proceeding before the Deputy; and yet he will imply, there have been proceedings to the contrary, which we cannot ſee.

He juſtifies his Proceedings by former Deputies, and hath produced *Henry Dillon*, who hath ſeen ſeveral Proceedings in Sir *Henry Bagnall*'s time, and others, where Orders have been made by the Deputy alone, but the Orders themſelves are not brought; Whereas if they were looked on, and conſideration had what reſults out of them, their Lordſhips would not have ſuffered them to be read, without Atteſtation that they were true Copies. But now whether they be entred or no, or what other Proceedings there were, the Witneſs doth not know; and therefore they are no Evidence, nor in truth ought to be offered: And the Witneſs being asked what the Orders were, he ſays, one was a Reference, and whether Witneſſes were examined, he ſays, he doth not know.

He produces my Lord *Dillon*; and we offer to be adjudged by him; for he ſays, He knew not any Deputy before my Lord of *Strafford*, that hath intermeddled with matters of Land, except in Plantation and Church Cauſes; and this Order is charged to be made by him alone.

He pretends this is a Court, and a Prerogative of the Sword.

We know not whether my Lord of *Strafford* intends to keep it by force; but whereas he produceth a Commiſſion for giving Oath to the Clerk of the Council; this Commiſſion needed not if it were a Court, for the Court it ſelf would give an Oath; and whereas he mentions it to be in the nature of the Court of Requeſts, we would gladly know, whether there be not Authority in the Judge to give an Oath.

He produces ſeveral Orders in my Lord of *Faulkland*'s time,

The firſt is expreſly for Plantation Lands; and there was no determination in Equity, or otherwiſe.

The ſecond Order he produced in my Lord *Faulkland*'s time, was a meer Green-cloth Caſe, and nothing to this purpoſe.

The third Order produced, was in a buſineſs recommended from *England* to my Lord of *Faulklaud*, and ſuch Cauſes as are out of the Inſtructions excepted.

The Order in the Lord of *Cork*'s time, was but an Order of Reference to the Arch-Biſhop; and a Reference is no Determination, a private Perſon may do as much.

So that we obſerve, nothing hath been offered to prove, that a Deputy alone hath determined matter of Poſſeſſion; and in this we reſt with confidence, That none ever did before himſelf; and ſhall therefore deſire the Examination of ſome Privy-Counſellors.

He produced a Letter from His Majeſty to proceed in ſuch Cauſes: but if by Law it ought not to be, then a Letter, and Authority derived thereby, is void, and warrants not Proceeding in the Subject; the Letter was as juſt

as

as might be, being obtained on his Information to whoſe Government and Truſt His Majeſty had committed the Kingdom; and if he miſ-inform, he muſt Anſwer it. And the Letter is written with caution, giving Authority to proceed in matter of Equity, as former Deputies had done; and if it be not proved that his Predeceſſors had uſed ſuch Proceedings, where is his Authority? *Article 6.*

He ſays, he hath proceeded according to the direction of the King's Letter; that is, he never determined Title of Land but in Equity; and when ſuch Cauſes have come to him, he hath referred them to Law, which we are forced to diſprove that, by offering it under his own hand, that whereas a Nobleman of the Realm, my Lord of *Baltinglaſſe*, had mortgaged to Sir *Robert Parkhurſt*, for 3000 *l.* Land of a 1000 *l.* a year: when Sir *Robert* had Title at Law, and might as Mortgagor, have entered after the day paſt, Sir *Robert* prefers a Petition to my Lord of *Strafford* himſelf, and he without the Council, determines the Poſſeſſion, and takes it from the Mortgagee, and afterwards he purchaſes the Lands himſelf, and letts them for 680 and odd pounds a year.

For my Lord *Mountnorris* his Impriſonment, the Manager ſaid, That when his diſtreſſed Lady, the Mother of Twelve Children, Petitioned His Majeſty, declaring the great Diſtreſs her Husband ſuffered by the Tyrannical Power exerciſed over them; His Majeſty like a Gracious Prince, referred it to the conſideration of the Deputy, That on ſubmiſſion he ſhould deliver him out of Priſon. But when the poor Lady preſented it with Tears in her Eyes, and caſt her ſelf at his Feet, though there was a Reference from his Majeſty; yet he, that would at another time ſhelter himſelf under the King's Prerogative, refuſes to give ſo much Reſpect as to entertain it; and when the eideſt Son came, refuſed to accept it.

Another of the Managers added, That whereas there is a reſtriction in the King's Letter, that the Earl of *Strafford* ſhould not meddle with any thing in other Courts, they would ſhew, that after two Decrees in a Court, my Lord hath on a Petition, Decreed quite contrary; and it was no Beggars Cauſe, but a Knights, and 5000 *l.* value: That to the King's Letter they will give all Reverence.

But if my Lord of *Strafford* had found ſuch a conſtant practice to be proved, he needed no Letter to ſet up the Juriſdiction that was in him before; That this Letter under the Signet, can give no Countenance againſt an Act of Parliament; which Orders, That the Deputy ſhall not meddle with Cauſes, but remit them to their proper Courts; and no other Expoſition can be given of the ſaving of the King's Preogative, but only a reſervation of His Liberty to Sue in any Courts.

And for him to ſeek by miſ-information, to procure a Letter from His Majeſty, for a Power not warrantable by Law, he conceives it an Abuſe of His Majeſty, and that makes his fault the greater; and he inſtanced in the Marqueſs of *Dublin*, who for procuring Letters Patents under the Great Seal, to exerciſe a Power againſt Law, was complained of in Parliament, and had Judgment for it, among other things, of High Treaſon.

Article 6.

They proceeded to Proof. And firſt,

E. of *Corke* a Witneſs.

The Earl of *Corke* being asked, whether before my *Lord* of *Strafford*'s time, he hath known the Deputy, or Juſtices alone, determine any matter of *Land*, in Equity or otherwiſe;

He Anſwered, he remembers not any, except in caſes of the Church and Plantation.

Lord *Ranulagh* a Witneſs.

The Lord *Ranulagh* being asked to that point;

Anſwered, Never any to his knowledge; having been of the Table two and twenty years.

S. *Adam Loftus* a Witneſs.

Sir *Adam Loftus* being asked to the ſame point.

Anſwerd, He remembers not any; having been a Privy-Counſellor 20 years

Lord *Mountnorris* a Witneſs.

The *Lord Mountnorris* being asked to that point;

Anſwerd, He never knew any, having been a Privy-Counſellor ſince 14 *Jac.* and lived in *Ireland* 38 years; That he was there all the time of my Lord *Chicheſter*, or very near; and was ſo acquainted with his proceedings, that he dare engage himſelf for all he is worth, that the *Lord Chicheſter* never put any ſuch Order under his hand.

Earl of *Bath* a Witneſs.

The Earl of *Bath* Sworn, and asked to that point;

Anſwered, That he hath often heard the Deputy in caſes of Debt, for relief of poor men, hath proceeded alone; but in caſes of Land he never heard of any.

To take off *Henry Dillon's* Teſtimony, the Manager alleged, That he had been Sentenced at the Council-Board, for ſpeaking untruths.

E. of *Strafford*.

My *Lord* of *Strafford* deſired the exception might not be made; ſome Exceptions by him made to Witneſſes againſt him, being not admitted; and that there might be *unum pondus, una menſura.*

Mr. *Maynard*.

The Manager Anſwered, *In eodem genere Mali.* This Exception is not for Extortion, or collateral matters, but for Perjury.

Thereupon his acknowledgment was read; wherein he confeſſes he had hily tranſgreſſed againſt the Honour of his Majeſty and the Board, in preſuming to declare apparent untruths.

And that ſuch an Acknowledgment was made, was teſtified by Sir *Adam Loftus*, and Likewiſe by the Lord *Dillon*, who ſhewed their *Lord*ſhips the occaſion thereof.

To the matter of my *Lord Mountnorris*'s Impriſonment, it was offered under my *Lord* of *Strafford*'s own hand, to ſhew that it was partly upon the Sentence, *December* 24, 1636.

My Lord of *Strafford* not denying it to be his hand, it was read, being a Reference upon my *Lord Mountnorris*'s Petition, and in ſubſtance as followeth;

That

That for the Petitioners reſtraint more than twlve months, he hath no body to blame but himſelf, that hath all that ſpace lain under a deſerved cenſure of the Council of War, and ſtood in Contempts, and trifled with the Court of *Caſtle-Chamber*. *Article 6.*

That His Majeſty's removal of the Sentence hath been often ſignified, but never ſued forth; That the Petitioner did to the ſame effect, Petition the Lord Deputy in *May* laſt, and therefore all the Anſwer that for the preſent can be given, is, that his moſt gracious Pardon ſeeks no man, nor can His Majeſty remit all of that Sentence to be applied to the Petitioners benefit, till by his humble ſuit be procured His Majeſties Pardon under the Great Seal, *&c.* which taking the uſual way, and humbly acknowledging the juſtneſs of that Sentence, he may have, *&c.*

A Petition was then read, directed to the Earl of *Strafford* from my Lord *Mountnorris*.

Praying a Warrant for a Pardon under the Great Seal, according to the Law, and the purport of His Majeſties directions; if his Lordſhip ſhall conceive His Majeſtys Letters (on which he Lord *Mountnorris* relied as ſufficient) did not amount to a Legal Pardon.

Then was read my Lord of *Strafford*'s Anſwer.

Dublin, January 30, 1636. When the Petitioner ſhall prefer his Petition for the ſaid Pardon, acknowledging the juſtneſs of the Sentence pronounced againſt him by the Council of War, we ſhall take his Requeſt into our further conſideration.

Wentworth.

Whence one of the Managers obſerved, That the King directs a Pardon to be drawn; *and till the Sentence be acknowledged to be juſt, no* conſideration ſhall be taken, and that the Preamble of the Pardon recites as much; and he would not ſuffer it to be Sealed till the Acknowledgment paſſed. Mr. *Palmer.*

Then was produced the Lady *Mountnorris* her Petition to His Majeſty referred to the Lord *Strafford.*

Mr. *Anſlowe* Sworn, atteſted the truth of the Copy; and it was read. Mr. *Anſlowe* a Witneſs.

Setting forth her Sorrow on behalf of her Husband, ſuffering in Honour, Health, and Impriſonment, for a word miſ-interpreted, and ſtill purſued in the *Caſtle-Chamber*; and humbly praying a Command for his comming into *England*, &c.

His Majeſties Reference to my Lord of *Strafford*, *July* 18, 1636.

His Majeſty is pleaſed, that on ſuch a Submiſſion as the Lord Deputy ſhall approve of, he ſhall have his Liberty to come into *England*; wherein the Lord Deputy is to take notice, and to give Order therein accordingly.

Mr. *Anſlowe* being asked, whether this was brought to the Deputy by the Lady *Mountnorris*; and whether he did not reject it.

He

Article 6. He Anſwered, That he was by when my Lady *Mountnorris* preſented the Petition, ſhe was humbly on her Knees to deſire my Lord of *Strafford* to receive it: And he refuſed abſolutely to receive it from her.

They then produced the Order in a Croſs Suit, *int. Robert Parkhurſt* Plantiff, and the Lord *Baltinglaſſe*, *& al.* Defendants, *Et e contra.*

The Order was read, whereby certain Lands for 3000 *l.* paid at ſeveral times to the Viſcount, and 300 *l.* more to be paid afterwards, are ſetled with Sir *Robert Parkhurſt.*

William Bretergh a Witneſs.

William Brettergh Sworn, was Interrogated touching my Lord *Baltinglaſſe* his Poſſeſſion of the ſaid Lands, and his diſpoſſeſſing thereof.

He anſwered, That he was Sollicitor for proſecuting of this Cauſe, and made Defence of it in behalfe of my Lord of *Baltinglaſſe*, being then in *England*: But at the time of the Decree, his Lordſhip was come over; That his Lordſhip never made Anſwer to it; but when the Cauſe came to hearing, my Lord of *Strafford* ordered the Poſſeſſion of the Land againſt my Lord *Baltinglaſſe*; and the Poſſeſſion before was in one *Grimble*, who was Tenant, And that he could ſpeak many other things concerning the carriage of it.

Mr. *Glyn.*

Mr. *Glyn* deſired the Witneſs might be examined touching my Lord of *Straffords* purchaſe of thoſe Lands; and offered the Articles whereby my Lord of *Strofford* leaſed the Land for 28 years, and at 666 *l.* *per annum*

E. of *Strafford.*

My Lord of *Strafford* confeſt thereupon, that he had it, but it was in Truſt for a Noble Perſon.

Mr. *Glyn.*

The Manager obſerved, That whether it was for a Friend or himſelf, it is equal; for a man will do a courteſie for his Friend, as ſoon as for himſelf; and ſo he concluded his Reply, hoping that their Lordſhips were ſatisfied, that he hath introduced an Innovacion; and being ſo, that he hath exerciſed a Tyrannical Power over the Eſtates of His Majeſties Subjects.

To ſuch parts thereof as was new matter, my Lord of Strafford *replyed, in ſubſtance as followeth.*

E. of *Strafford's* Defence.

I deſire that theſe matters that come on me ſuddenly, and being no part of my Charge, may not ſtick with Your Lorſhips.

In the buſineſs of my Lord of *Baltinglaſſe*, I remember little only that my Lord *Baltinglaſſe* had forfeited his Eſtate to Sir *Robert Parkhurſt*, who had a clear and free Eſtate in the Land, by Fine and Recovery, and divers Conveyances; the Lord *Baltinglaſſe* deſired me to take the hearing of the Cauſe, to ſee if I could procure from Sir *Robert Parkhurſt*, a further ſum of money: The Order was made with both their likings; and my Lord *Baltinglaſſe* was content to perfect the whole Eſtate. Sir *Robert Parkhurſt* was in Poſſeſſion at that time, not the Lord *Baltinglaſſe*; That ſeeing no cauſe to relieve him in Equity, they left him to ſeek relief in other places. That afterwards an Agreement was made, 300 *l.* received by the Lord *Baltinglaſſe*; and after 100 *l.* more got to be

be given, and ſo there was a full Conveyance and Accquittance from Father and Son, That himſelf hath no Intereſt in it, but only of Truſt to anothers uſe. *Article* 6.

For that which was offered againſt the Juriſdiction; the Proofs are Negative, and contradict not what I have offered; And if I might ſhew my Lord of *Faulkland*'s Book of Entries, I could produce as much done by my Lord *Faulkland* alone, 1623. Attachments againſt Body and Goods, Hearings between Parties and Parties, Warrants for Diſtreſſes, Warrants to the Sheriff for Poſſeſſion of Lands, Injunctions to Judges of Aſſize.

For my Lord *Mountnorris*'s Impriſonment, I deſire Your Lordſhips to obſerve, that His Majeſty's Reference is, That I ſhall not ſet him at liberty without a Submiſſion, ſo that he may thank himſelf for his Reſtraint.

For my Carriage to the Lady *Mountnorris* at the delivering the Petition, I deſire Your Lordſhips to hear a Witneſs.

Who being asked to that purpoſe,

Anſwered, That he was preſent when my Lady *Mountnorris* was once with my Lord, but knows not whether that were the time in queſtion. It was about 1636. That he was preſent when her Son delivered one before; which my Lord would receive, but her Son would not deliver the Reference, but a Copy, being ſo Commanded by his Lady Mother.

That when my Lady delivered it on her Knees, my Lord told her, She had done him the greateſt Injury ſhe could deviſe; and that if ſhe had broke his Head, ſhe ſhould have pleaſed him better.

Being asked, Whether my Lord rejected the Petition?

He Anſwered, That he cannot certainly remember what was done with it; but my Lord ſaid, he could not do any thing on a Copy.

The Lord Viſcount *Dillon* being asked to the ſame point,

Anſwered, He was by when my Lady *Mountnorris* came to my Lord to the *Covent-Garden*, with a Petition in her Hand, and kneeled to my Lord, but my Lord deſired her to riſe, and offering the Petition, he ſaid, he would not meddle with any Petition at that time; That my Lord was going abroad, and led her to her Coach in Civility, but received not the Petition.

My Lord of *Strafford* profeſſeth, theſe things be ſo long paſt, that he remembers them not well, nor whether ſhe offered a Copy the ſecond time. E. of *Strafford.*

The Manager did here obſerve, That he acknowledged the Civility of my Lord of *Strafford* in this point, but there is one point ſticks with him, as higher than any offered, and then their Lordſhips may think he goes high enough; That there hath been proved my Lord of *Strafford*'s Tyrannical Proceedings on the Life and Fortune of my Lord *Mountnorris*; One ſtep more, the Manager ſaid he had heard of, and that was his Soul, and that ſticks with him more than any thing elſe, He kept him in Priſon till he ſhould acknowledge the juſtneſs of a Sentence, which in his Heart he abhorred, and held unjuſt; That all former Tyrants, when they would proceed againſt a Man, have found out two falſe Witneſſes; but when a Man ſhall be made a falſe Witneſs againſt himſelf, it is much more Tyrannical. Mr. *Stroud.*

Article 6.

nical. And he wiſhed this Deſign had kept only in *Ireland*, and had not come into *England*, which he hopes ſhall be ſo no more.

And ſo after a ſhort Reply to the two particulars laſt mentioned, the Manager cloſed the *6th* Article, conceiving that it remains as was offered, That my Lord of *Strafford* hath determined things contrary to the Commiſſion and Authority obtained from His Majeſty.

The Manager added, That for the preſent the Commons will paſs by the *7th* Article, and proceed to the *8th*, concerning Arbitrary Power over the Eſtates of the King's Subjects; and of that, the laſt part, only concerning the Lady *Hibbott*.

E. of *Strafford.*

But my Lord of *Strafford* profeſſing his diſability to endure the Toil; and that he was ready to drop down, in reſpect of his much ſickneſs and weakneſs, and deſiring their Lordſhips to turn the caſe inward, and to ſee in the Cloſet of their own Hearts, if there be not reaſon, that being upon his Life, his Honour, and Children, and all he hath, he ſhould not be preſt further; and ſetting forth how the reſt of the day after his going hence is diſpoſed of.

The Houſe was Adjourned till next day.

The

The Fourth day.

Thurſday, March 29, 1641.

THE Eighth Article.

The Charge.

Article 8.

That the ſaid Earl of Strafford, upon a Petition of Sir John Gifford Knight, the firſt day of February, in the ſaid Thirteenth Year of His Majeſties Reign, without any Legal Proceſs, made a Decree or Order againſt Adam Viſcount Loftus of Ely, a Peer of the ſaid Realm of Ireland, and Lord Chancellor of Ireland, and did cauſe the ſaid Viſcount to be impriſoned, and kept cloſe Priſoner, on pretence of Diſobedience to the ſaid Decree or Order.

And the ſaid Earl, without any Authority, and contrary to his Commiſſion, required and commanded the ſaid Lord Viſcount to yield up unto him the Great Seal of the Realm of Ireland, which was then in his Cuſtody, by His Majeſties Command, and impriſoned the ſaid Chancellor for not obeying ſuch his Command.

And without any Legal Proceeding, did in the ſame Thirteenth Year impriſon George Earl of Kildare, a Peer of Ireland, againſt Law, *thereby to enforce him* to ſubmit his Title to the Mannor and Lordſhip of Caſtleleigh in the Queens Country, (being of great yearly value) to the ſaid Earl of Strafford's will and pleaſure, and kept him a year priſoner for the ſaid cauſe; two months whereof he kept him cloſe priſoner, and refuſed to enlarge him, notwithſtanding His Majeſties Letters for his Enlargement to the ſaid Earl of Strafford directed.

And upon a Petition exhibited in October, Anno Domini 1635. by Thomas Hibbots, againſt Dame Mary Hibbots Widow, to him the ſaid Earl of Strafford; the ſaid Earl of Strafford recommended the ſaid Petition to the Council-Table of Ireland, where the moſt part of the Council gave their Vote and Opinion for the ſaid Lady; but the ſaid Earl finding fault herewith, cauſed an Order to be entred againſt the ſaid Lady, and threatned her, that if ſhe refuſed to ſubmit thereunto, he would impriſon her, and fine her Five hundred pounds; that if ſhe continued obſtinate, he would continue her Impriſonment, and double her Fine every month; by means whereof ſhe was enforced to

Article 8. relinquiſh her Eſtate in the Lands queſtioned in the ſaid Petition, which ſhortly after were conveyed to Sir Robert Meredith, to the uſe of the ſaid Earl of Strafford.

And the ſaid Earl in like manner did impriſon divers others of His Majeſties Subjects, upon pretence of Diſobedience to his Orders, Decrees, and other illegal Command by him made for pretended Debts, Titles of Lands, and other Cauſes in an Arbitrary and extrajudicial courſe, upon Paper-Petitions, to him preferred, and no Cauſe legally depending.

The Article was opened by the Manager.

Mr. *Glyn.* THomas *Hibbott*'s Petition to my Lord of *Strafford* was read, ſetting forth;

That Sir *Thomas Hibbott* being ſeized of certain Land, conveyed the ſame to the uſe of himſelf for life, after death to the Petitioner in Tail, and divers Remainders over: That Sir *Thomas* of the ſaid Lands became ſeized for life, and died, the Petitioner being in *England*, and not knowing of the Conveyance. That Dame *Mary Hibbott*, *John Hoy* her Son, and others, taking advantage of his abſence, combined to get the Deeds, touching the Lands, into their hands. That they cauſed one *Booky* to come into *England* to perſwade the Petitioner to go into *Ireland*, and he went accordingly, and was brought to the place of the ſaid Lady's abode, who pretended that ſhe had an Eſtate in the Lands during life. That by this means, before he could be adviſed, he was drawn to contract for the Lands at half value, and he entred into Bond to perform Agreements. That the petitioner was more willing thereunto, in reſpect of a deſire to buy other Lands of *John Mattin*'s, and agreed for it, and was to receive 1800 *l.* of the ſaid Lady, which *Martin* was to receive, and the greateſt part paid out at the time and place appointed. That a Deed-Poll was drawn from him to Seal to, and acknowledge a Fine, and deliver Security for great part of the purchaſe-money. That notwithſtanding a Fine acknowledged, and Security given up, the Lady *Hibbott* refuſed to let *Martin* have the ſaid Money, and ſo the Petitioner diſappointed of the Bargain; and therefore prays, that the Evidences, Deed-Poll, Fine and Bond might be delivered up, and the Agreement diſcharged, being ſurreptitiouſly obtained.

The Lord-Deputy's Warrant was ſubſcribed and read, bearing Date 15 *October*, 1635. *viz.*

That the Lady *Hibbott*, *&c.* ſhould on ſight therefore, forthwith deliver the ſaid Deeds, *&c.* to Sir *Paul Davis*, and to appear at Council-Table the 20*th*, of this inſtant *October*.

Mr. *Glyn.* The Manager obſerved, That the Petition was preferred in the name of *Thomas Hibbott*, though, in truth, he had never knowledge of the exhibiting of it, and that the firſt Bargain with the Lady *Hibbott* was made 22 *September*, 1635. the Petion exhibited 15 *October*, 1635.

The Decree was read, *John Hoy* atteſting it to be a true Copy wherein the Petition is recited, and the time; and it is ſet forth, that the Courts of Juſtice were not then open, that the Petitioner being a Stranger, it was not fit he ſhould long attend. That the Defendants denied the fraud charged: To which the Plaintiff Replyed, the Defendants rejoin, time given to examine Witneſſes, and a day for hearing ſet down. That at the

the hearing, it appears the ſaid *Lady* brake into her deceaſed Husbands Study, poſſeſt her ſelf of the Deeds and Writings. That *Booky* was ſent over (as might be conceived) to circumvent the Plaintiff. That getting him to her houſe, ſhe contracted with him for 1600 *l.* before he knew of the value; that underſtanding it to be worth 2250 *l.* he refuſed to proceed, and then the *Lady* raiſed the price to 2500 *l.* That by not payment of a part of it, the Bargain with Mr. *Martin* (the cauſe of his treaty with the Lady) was diſappointed. That the Lady pretended an Eſtate for life in the Lands, when ſhe had only an Eſtate in part for 99 years, if ſhe lived ſo long, and no Eſtate in other parts thereof, which the Plantiff knowing not of, could not ſuffer a *Præcipe quod reddat* without her joining, whereas being but Leſſee for 99 years he might. *Article* 8.

That it appears by the Deeds that the Plaintiff intended not to ſell the *Lands*, for that he knew them not, as appeared by Circumſtances, which the Order doth more particularly ſet down. That the criminal part ſhould be reſerved, to be made uſe of by the King's Council; that for the civil part, the ſaid Bargain was Ordered to be void. That the Fine not yet recorded, but remaining unreturned, ſhall be cancelled, if the Plaintiff ſhall require it. And the *Lady* to have only ſuch Eſtate as ſhe had before, and no other. And both Parties are hereunto to yield Obedience, 24 *November*, 1635. *Adam Loftus* Chancellor, *Ormond*, *Valentia*, *Moore*, *Dillon*, *Sherley*, *Lowther*, *Wainsford*, *Manwareing*, *Tiringham*, *George Ratcliffe*.

Mr. *Glyn*.

The Manager opened the nature of the Cauſe, obſerved the particular parts of the Order, ſhewing, that there was a Conveyance executed, a Fine levied, though not returned by his Order, no Witneſſes examined, though ſhe denies the Fraud, and Arguments are made to convince her by obſervation of circumſtances, and ſo concluded to overthrow a Bargain in *October* before. That it is pretended to be when the Courts of Juſtice were ſhut, though it was heard in full Term, 24 *November* 1635. the Term there beginning as in *England*, but adjourned to the 2 of *November*, and the ſaid Order was contrary to the Vote of the Council-Board. That when that Bargain was overthrown, the Lands were purchaſed by Sir *Robert Meredith* and others for 3000. *l.* to the uſe of the Earl of *Strafford*, and he ſold them back to the Lady *Hibbott* for 7000 *l.* That when this Petition was preferred, *Thomas Hibbott* deſired to be gone, and have his money; applies himſelf to Sir *William Parſons* for advice, Whether he might not withdraw his Petition; he ſends him to Sir *George Ratcliff*, Sir *George* oppoſes it; the Petitioner goes to my Lord of *Strafford*, and he tells him, Do not withdraw your Suit, 500 *l.* more in your purſe will do you no hurt.

John Hoy was firſt produced as a Witneſs, and Sworn.

E. of *Strafford*

My Lord of *Strafford* offered to their Lordſhips Conſideration, That the Witneſs is to have the Inheritance of the Lands, and ſo ſwears directly for himſelf.

Mr. *Maynard*.

But the Manager Anſwered, That if he ſhall have the Inheritance, his Lordſhip knows the terms, he hath paid 7000 *l.* for it. And Mr. *Maynard* added, that if the Decree were of force againſt him, it were ſomething, but the Land is ſince paid for; and whether the Decree be good

Article 8.

or bad, he can neither loſe nor win by it, for he comes in as a Purchaſor. Yet my Lord of *Strafford* preſt it, that the Witneſs complained, and ſeeks Relief againſt the Decree. But the Manager Anſwered, It was for his Mother, not for himſelf; though upon my Lord Steward's demand, he confeſt he was the Lady *Hibbott*'s Son, by a former Husband, and that the Inheritance is now in him. But my Lord of *Strafford* obſerved, if he can recover 3 or 4000 *l.* upon his Oath for his Mother, it is well. And their Lordſhips admitted him to be examined.

He was asked, What he knew concerning the Agreement between *Thomas Hibbott* and the Lady *Hibbott*, for the Purchaſe of the Reverſion of the ſaid Lands, the tearms and times.

He Anſwered, with deſire to uſe his Notes, That *Thomas Hibbott* about 7 *September* continued two or three days in *Dublin*, and then came to *Caſtlington*, continued there a full day, and not a word ſpoken of the Bargain. That the Writings, whereby the Eſtate was ſettled, were ſhewed him, the ſaid *Thomas*, and he read them. That being asked, Whether he would have more ſatisfaction? He ſaid, He was ſatisfied; being demanded whether he would live in *Ireland*, and keep his Eſtate? He ſaid, No, and that he would ſell moſt of it. That the Lady *Hibbott* deſired ſhe might be preferred in the Sale, having intereſt by Joynture, and ſhe conceived it for life; and demanded what he would ask? that he anſwered, What ſhe pleaſed above 2000 *l.* That being asked, Whether he knew the Land? he anſwered, He knew it, for ſome years before he was in *Ireland* in Sir *Thomas*'s life time, and a Servant of his had ſhewed him the Land. That ſhe offered 1500 *l.* and he ſaid, for 1600 *l.* ſhe ſhould have it, and ſo it was agreed. That ſhe ſent the Deponent up for 100 *l.* but the ſaid *Thomas* ſaid, he would not uſe ſo much, and took only 20 *s.* to bind the Bargain. That on *Monday* following they went to *Dublin* to draw up Articles to perfect the Bargain, and two or three days were ſpent about it. That he the Deponent tendered the Articles, and he the ſaid *Thomas* excepted againſt the general Warranty, which he deſired might be amended, and then he would perfect them, and it was amended accordingly. That in the interim, the day before Sir *Robert Meredith* went to him, and treated with him, offering, if he would break off, he the ſaid Sir *Robert* would ſave him harmleſs, as *Thomas Hibbott* told him the Deponent. That thereupon *Thomas Hibbott* flies off, and told him the Deponent Sir *Robert Meredith* offered him 2250 *l.* That thereupon he the Deponent left the Town, and went to his Mother, and informed her of it.

That before the breach of the Bargain, he the Deponent procured a *Subpœna*, to ſue the ſaid *Thomas* thereupon, and that the ſaid Lady coming to Town with the Deponent, the ſaid *Thomas* came to her, and being asked the reaſon, why he would break the Bargain? He anſwered, Sir *Robert Meredith* had offered ſo much, and ſhe anſwering, That ſhe would not give an under-value, becauſe ſhe would not have another get the Reverſion. He Replyed, That for 2500 *l.* ſhe might have it, which ſhe was content to give; and the Agreement was made. That the ſaid *Thomas* went immediately to Sir *Robert Meredith* to give him an Anſwer, and ſatisfied him: That he the Deponent met Sir *Robert Meredith* coming out of his Lodging, and challenged him of this unneighbourly courteſie, who ſaid, It is true, he was about it, but the Lady *Hibbott* had bid more than he, and wiſhed her much joy of it.

That

That the next day the Articles for the 1600 *l.* were perfected, and a Bond given for 900 *l.* to make it up the Sum of 2500 *l.* and this to be paid in *England* (for there was no motion about Land in *England* from the ſaid *Thomas*.) That two days after he the ſaid *Thomas* went to *John Martin*, who had a little Eſtate, and treated for the Eſtate, for which he was to give him 1900 *l.* That the ſaid *Thomas* came back to *Dublin*, and tells the Deponent of it, who had taken a courſe to exchange 2000 *l.* for him, and was to have near 80 *l.* for exchange of it. That notwithſtanding, on Mr. *Hibbott*'s return, he the Deponent was content he ſhould have it paid there. *Article* 8.

That ſoon after *Thomas Hibbott* acknowledged a Fine, perfected a Feoffment, and ſo paſſed all the Eſtate that could be in himſelf. But the Lady thought it could not be ſecure without a Recovery; for the ſaid *Thomas* had but one Son, who had no Son, and the life of the Man is uncertain; yet before that was deſired, *Thomas Hibbott* ſaying Mr. *Martin* was willing to receive the Money; he the Deponent appointed a day for receiving of it, and paid Mr. *Martin* 1800 *l.* giving Bond for payment of 100 *l.* 16 *November*, this being the 9*th* of *October*. That he delivered Mr. *Hibbott* 60 *l.* and procured a Bill of Exchange to be paid at *Neſſon* on ſight 40 *l.* That he took up the 900 *l.* Bond entred into by his Mother, and gave a Bond for payment of 500 *l.* at *Cheſter* a day following. That the Money being ſealed up by Mr. *Martin*, it was left there that night, and the next day they were to go to the Lady to enquire if they had ſufficient Security, and went accordingly, and carried the Deeds along with them. That the Lady's Council told her, a Recovery was neceſſary, which might be done the firſt day of the Term. That he the Deponent deſired Mr. *Hibbott* to ſtay till the Term, and offered to bear his Charges, but he would not, Winter growing on, and ſaid plainly, He would not ſtay. That thereupon he the Deponent ſerved him with a Writ he had prepared on the firſt Bargain. That immediately the ſaid *Thomas* goes away to Mr. *Sambridge*, and informed him, that he had been often with him the Deponent to break the Bargain, and now is ſerved with a Writ, and therefore prayed him to draw a Petition to my Lord-Deputy, which was drawn accordingly. To which the Lady and Deponent had time to Anſwer till *Thurſday*: That the time was ſhort, and there was a miſtake in the Anſwer; for it was ſet forth that the Lady had an Eſtate for life, whereas ſhe had an Eſtate but for 99 years, if ſhe lived ſo long. That on this miſtake diſcovered, my Lord-Deputy called for the Conſtable of the Caſtle, and commanded the Clerk of the Council to draw a Warrant to commit their Council, till the Gentleman fell on his knees, and openly asked forgiveneſs. That then they could hardly get Council to plead: That there was a Reply and Rejoynder. And in the interim Mr. *Hibbott* came to him the Deponent, went to the Maſter of the Wards, and deſired to be diſmiſſed. That Sir *George Ratcliffe* appointed them to attend him, which they did. That Sir *George* took Mr. *Hibbott* with him, and on *Sunday* following the Lord-Deputy being informed of *Hibbott*'s conſent, on *Monday* he ſent for *Hibbott*, and wiſhes him to go on with the Suit, and asked him, What hurt it would do him to carry 500 *l.* more to *England*. The next day being *Tueſday*, there was no Witneſſes examined, though a time was appointed to examine them; for the Clerk of the Council was buſie, and could not attend it. That they deſired *Hibbott* might be examined, and they would be bound by his Oath, and his Lordſhip granted a Warrant for it; and Mr. *Hibbott* was almoſt examined,

for

Article 8. for on a Council-day the Order was given to the Deponent. But that very Afternoon my Lord-Deputy came to the Council-Board, and as ſoon as he was ſate, ſpake to this effect; Here is a buſineſs concerning my Lady *Hibbott's*, proſecuted with a great deal of Violence that ever I knew, and an Order procured for the Examination of the Plaintiff; but if any ſuch Order be, or Examination taken, I will have it damned; and this is as much as he can ſpeak.

Being asked, Whether my Lord of *Strafford* did not threaten my Lady *Hibbott* with Impriſonment, till ſhe performed the Order.

He Anſwered, That on the firſt day of *January*, after the Decree, my Lord-Deputy ſent to the Lady *Hibbott's* Houſe, to require her, and him the Deponent to attend him, which they did accordingly, and were called into his Chamber, where was Mr. *Sambridge* of Council with Mr. *Hibbott*, a Siſter of the Deponents, he the Deponent, and ſome others. That my Lord-Deputy asked them, Why they would not perfect the Re-aſſurance according to the Order, to which the Deponent offered ſome Exceptions, drawn up by the Council, alledging, that they could not poſſibly perform the words of the Order, and that they might perform them as near as might be; they ſhewed a courſe that might be obſerved, but my Lord-Deputy ſaid, He would not be cavil'd withall, he would have the Order of the Board obeyed; and ſince they juggle thus, his Lordſhip ſaid, He would have the Orders drawn up, and tendered, and that if they will not perform them, he will commit them to the Caſtle, where they ſhall lie a Month, at that Months end he will ſend for them to the Council-Board, and tender them again, and if they would not perform them, he will Fine them 500 *l.* and another Months Impriſonment, and then tender them again, and if they will not perform then, he will Fine them 1000 *l.* and another Months Impriſonment, and ſo from time to time, till they had performed the Orders of the Board.

Being asked, Whether theſe Lands were not purchaſed in the Name of Sir *Robert Meredith*, and others, and to whoſe uſe?

He Anſwered, That he hath the Deeds of the Land himſelf, and what the Dates are he doth not remember. But he knows the Lands were purchaſed in the Name of Sir *Robert Meredith* and others, but he cannot ſpeak to whoſe uſe, but from Sir *Robert Meredith's* own mouth, for when he the Deponent paid 7000 *l.* to him, he the Deponent was telling him the great advantage he made by this Bargain. In truth, ſaith Sir *Robert*, the advantage is nothing to me, I receive it with one hand, and carry to the Caſtle with the other. That the beginning of *December* laſt Sir *Robert* ſent for the Deponent, and told him, He heard he was coming over to complain of ſuch a matter, but deſired him the Deponent not to trouble him, for he proteſted ſeriouſly, he had nothing to do with the buſineſs, his Name was only uſed as Sir *Philip Perſival's* and Sir *Robert Loftus*, it was meerly to my Lord Lieutenant's uſe.

Mr. *Glyn.* The Manager obſerved, That when their Lordſhips have heard this, they will not wonder at the next Witneſs they ſhall produce, that a Supream Judge ſhould perſwade to continue a Suit, which he would have withdrawn; and that notwithſtanding the major part of the Board was againſt the Petitioner, yet the Order was drawn for the Petitioner.

Mr. *Hoy*

Article 8.

Mr. *Hoy* being asked to the matter of the Vote

He ſaid, He was withdrawn when they gave their Vote, but a noble Member of the Board came to his Mother to Supper, and named to him the Deponent every Man that Voted for and againſt her, that he writ down their Names at that time, and there were twelve Votes for her, and nine againſt her; that he the Deponent was afterwards informed by another then at Board; that the major part of the Board went for his Mother.

Mr. *Hoy* a Witneſs.

Thomas Hibbott was Sworn, and being asked, Whether there was not a Petition preferred to the Lord-Lieutenant there for breaking off the Bargain between himſelf and the Lady *Hibbott*, and anſwered before he knew of it.

He Anſwered, having the Queſtions dictated by the Clerk, being an old deaf Man: That he cauſed a Petition to be drawn, but not this; that this Petition he knew nothing at all of; that he wiſhed a Petition to be drawn by Mr. *Sambridge*, but it was only that he might have his Money, and go into his Country.

Thomas Hibbott a Witneſs.

Being asked, Whether after the Petition drawn and anſwered, he did go to Sir *William Parſons*, and deſired to be quit of the Suit, and that he went thereupon to Sir *George Ratcliffe*, and what paſſed?

He Anſwered, He ſent to Sir *William Parſons*, and he ſent him to Sir *George Ratcliffe*, and Sir *George Ratcliffe* ſaid, He ſhould not be diſmiſſed from the Board.

Being asked, Whether my Lord of *Strafford* did not ſend for him, and tell him 500 *l.* more in his purſe would do him no harm?

He Anſwered, It is true, my Lord wiſhed him to go on with his Suit at the Board, and that no Man in *Ireland* ſhould do him wrong, and it would do him no harm to carry over 500 *l.* more.

Being asked, What Sir *Robert Meredith* ſaid to him?

He Anſwered, That he would bring all the Writings to him the Deponent.

Being asked on my Lord of *Strafford's* motion, What Fees he laid out?

He Anſwered, 40 *l.* to Mr. *Sambridge*; and the Manager obſerved, he was preferred preſently after the Bargain was executed.

Being asked, What words were uſed to the Lady *Hibbott*?

He Anſwered, That my Lord-Deputy asked, Will you not perform the Order; if not by ſuch a day, I will ſend you to the Caſtle, and there you ſhall lie a Month, and at the Months end you ſhall be brought to the Board, and have 500 *l.* laid on your head, and at another months end 1000 *l.* more Fine, and you ſhall go back to the place again, and after that a third Months Impriſonment, and your Fine increaſed; your Eſtate I know is very great, and if it were ten times bigger than it is, I will make it crack.

To prove that the major part of the Board was againſt the Plantiff.

The Lord *Mountnorris* was asked, Whether he was preſent at the Council-Table at that time when this Cauſe was agitated, and which way the major part of the Votes went at that time?

Lord *Mountnorris* a Witneſs.

He

Article 8. He Anſwered, He was there preſent, and the Major Vote went for the Lady, and there were 12 or 11, he cannot poſſibly ſay which (though he took it then perfectly into memory) on one ſide, and nine on the other ſide.

Earl of *Cork* a Witneſs. The Earl of *Corke* asked to the ſame purpoſe.

He firſt made an humble Suit to their Lordſhips, that he might not be produced as a Witneſs againſt the Priſoner. His Reaſon is, That when he hath delivered a true Teſtimony, my Lord of *Strafford* preſently purſues him, and lays Imputations and ſcorns upon him; and therefore humbly prayed to be ſpared, elſe that he might have liberty to juſtifie himſelf.

Mr. *Glyn.* Whence the Manager obſerved, What it is to fall on Witneſſes Perſons extravagantly, when they produce them, and therefore deſired my Lord of *Strafford* might forbear it, being a great diſheartening to Witneſſes.

My Lord of *Corke* added, That my Lord of *Strafford* accuſed him to have a Pardon, whereas he knows he hath none. That he is an honeſt Man, and wiſhes my Lord of *Strafford* could leave the Kingdom with as much Reputation as himſelf had left it. And for the matter demanded, his Lordſhip ſaid, He was at the hearing of the Cauſe, and Voted againſt the Plantiff; but whether the major part Voted againſt him or no, he knows not.

Being asked, What words my Lord of *Strafford* ſaid about making a party in that Cauſe?

He Anſwered, That he thinks he ſpake theſe words, He did not think there would have been a party againſt him, for if he had, he would not have brought it to that Table, for the Petition was preferred to himſelf.

Sir *Adam Loftus* being asked, What Sir *Robert Meredith* told him of his part in the Bargain.

He Anſwered, That he heard him ſay, He had no Title or Intereſt in it, but only his Name uſed in truſt, but for whom he did not declare, and that was all he ſaid to him.

Mr. *Glyn.* The Manager added, That they have another Witneſs to prove that of the majority of the Vote, my Lord of *Ely*, but he is ſick.

And ſo the Manager ſummed up the Evidence, and obſerved it to be ſomething, that my Lord of *Strafford* ſhould pitch upon the very ſum of 500 *l.* that Mr. *Hibbots* had by way of increaſe. That the Order was made with an examination of Witneſſes, on pretence of Fraud, where the Lady denied it on Oath, and that though it was ſo great a fraud in the Lady to procure a Reverſion for 2500 *l.* which was ſold for 3000 *l.* and afterwards re-ſold to the Lady for 7000 *l.* and ſo concluded that it is an Arbitrary Government, drawn into my Lord of *Strafford*'s own breaſt, and the Inheritance of a great Eſtate taken from the King's Subject without Rule of Law, there being a Fine levied, but being not retorned (as the Commiſſioners are bound to retorn it) he made an Order it ſhould not be retorned, and a Lady threatned with doubling and trebling the Fine, and one of the Feoffees, Sir *Robert Meredith*, confeſſes it was for my Lord of *Strafford*. And to prove that, Sir *Phillip Perſival* acknowledged ſo much.

Mr. *Fitz-*

Article 8.

Mr. *Fitzgarret* was Interrogated, What Sir *Philip Perſival* ſaid, who thereupon anſwered, That Sir *Philip* had often told him, the Purchaſe was to the uſe of my Lord Deputy, now Earl of *Strafford.* That he hath had occaſion of Conference with him about the Eſtate, and hath ſometimes diſcourſed with him concerning the Eſtate wherein his name was uſed. That he the Deponent might underſtand how far it concerned him, telling him that the Eſtate would one day be qneſtioned. And Sir *Philip* proteſted, he never knew of this buſineſs till his name was put into it, and he came to Seal the Writings, and that it was to the uſe of my Lord Deputy.

Some Queſtions ariſing about the number of Hands to the Order, being in all 14.

Mr. *Glyn.*

The Manager obſerved, That more have ſubſcribed then thoſe that gave their Vote, being a Cauſe introduced by my Lord of *Strafford.* That all ſubſcribed the Orders as well thoſe againſt them, as thoſe for them, and Appealed therein to my Lord of *Corke.* The Courſe being, when an Order is made, to bring it to the Table another day, and take all the Hands of them preſent; and he added, That their Lordſhips that are Counſellors know that Courſe to be uſed here.

Lord *Corke* a Witneſs.

My Lord of *Corke* being asked to that point.
Anſwered, That he knows nothing of it.

Lord *Primate* a Witneſs.

The Lord *Primate* of *Ireland* his Exmination was offered, and was admitted accordingly to be read, being taken 30. *March*, 1641.

To the fourth Inter. That when the Major part of the Council-Board go one way, and the Minor part another way; when the Order is drawn up, the Minor part Signs it as well as the Major. The Lord-Deputy alledging it to be the practice of the Council of *England*, and he himſelf had done it; but before my Lord of *Strafford*'s comming he never knew it to be ſo.

Lord *Renula* a Witneſs.

Lord *Renula* being asked to the ſame Point.
Anſwered, that he doth not remember that Order to be of force there till of late years, and that my Lord of *Strafford* hath declared to them that it is the practice of *England*, and when the Major part doth ſubſcribe, though others be of different Oppinions, they are involved in it, and muſt ſubſcribe.

The Lord *Savil* deſired he might be asked, Whether he ever knew, that when the Major part did Vote againſt an Order, they did ſubſcribe it.

Mr. *Glyn.*

The Manager anſwered, That that's their grief; and though there be no ſuch courſe, yet if it concern my Lord of *Strafford*, he will make it a courſe.

Lord *Renula* a Witneſs.

Lord *Renula* being asked, Whether he were preſent at the Council-Table when this Vote was given, and what he heard concerning the Vote.

He Anſwered, That he was not there, and he heard very little of it; that the moſt he heard of it, was ſince the coming of this Gentleman,

Article 8. Mr. *Hoy*, into *England*; and that to his beſt remembrance he heard Sir *William Parſons*, now Lord Chief Juſtice, ſay, He was informed the Major Vote went againſt Sir *Robert Meredith*.

And ſo the Manager concluded the Charge as to the Eighth Article, ſaying, That here is a Proceeding for a Free-hold, contrary to the Fundamental Laws of the Kingdom, contrary to the Inſtructions in the manner and meaſure as their Lordſhips had heard.

My Lord of Strafford, *after ſome time given for the recollecting of his Notes, began his Reply in ſubſtance as followeth:*

E. of *Strafford.* I will, with your Lordſhips noble Permiſſion, Juſtifie my ſelf againſt the Charge of High-Treaſon exhibited againſt me.

Having been blamed by the Gentlemen at the Bar for going to matters not pertinent, I ſhall henceforth keep my ſelf to that within the Charge, truſting that the thing wherewith I am not Charged, ſhall not dwell with your Lordſhips to my prejudice, but that your Lordſhips will in your Nobleneſs and Juſtice reſerve to your ſelves, till in its proper place and kind, I ſhall Anſwer thereunto, conceiving that I am to Anſwer only to Treaſon, not to Miſdemeanor,

The Charge opened, is a Decree given by the Deputy and Council of *Ireland*, to the ſubverſion of the Fundamental Laws, and to the bringing in of an Arbitrary and Tyrannical Government.

Whether it be ſo or no, or whether by any manner of Conſtruction it can be brought as an Argument to convince me of High Treaſon, I conceive I am to Anſwer.

Whether the Decree be in it ſelf juſt or unjuſt, is not the queſtion, but will come clearly to your Lordſhips Judgments upon the Petition of the party when ſhe ſhall ſue for her Right. And when it comes to be Charged upon me as a Miſdemeanor, I ſhall give ſuch an anſwer as befits me.

There is nothing in this Charge that can be interpreted Treaſon, for it is but the exerciſing of a Juriſdiction in the Deputy, which he hath Commiſſion for from His Majeſty; and the inlarging of a Juriſdiction in a Judg, I conceive, is not Treaſon.

The Proofs formerly offered to prove the uſe and practics of the Deputies (which I need not repeat, your Lordſhips being Perſons of great Wiſdom, and once ſaid, always ſaid,) come to my help and aſſiſtance in my Charge, the queſtion being upon the ſame Juriſdiction only, and that in one particular Circumſtance I conceive my ſelf ſtronger in this Cauſe than in that of my Lord *Mountnorris*. This Caſe being of a Petition preferred to me, but referred by me to be heard before the Council-Board; and the Witneſſes ſay, That though they did not know nor remember, that the Deputy himſelf heard Cauſes alone, yet it was frequent for the Deputy to receive Petitions, and refer them to the Board. So that I conceive I have exerciſed or done nothing, but according to the Practics and Cuſtoms of that Kingdom, and conſequently cannot be made uſe of as an Argument that I ſubvert the Fundamental Laws, or bring in Arbitrary or Tyrannical Government, when I ſtep in the paths of my Predeceſſors, and the practice of other Men in the like Caſes. And that I ſay as to this Point of Juriſdiction.

The

The next Point I am Charged with is, That the moſt part of the Council-Board Voted againſt it; whereas I ſay in my Anſwer, the moſt part Voted for it, and on that I moſt humbly inſiſt ſtill, and ſhall make it clearly appear to be ſo. *Article 8.*

For Proof on the other Side, they have only my Lord *Mountnoris* his Teſtimony, who ſays, They had 12 againſt the Orders, and nine for it. And Mr. *Hoy* ſaith, That an Honourable Perſon that night told him, 12 were for him and nine againſt him; ſo it muſt all be one man, and one Teſtimony.

To prove the Major part was for the Decree, there was the Order ſigned under the Clerk of the Council, a ſworn Miniſter, who could not draw it up without the plurality of Voices, being againſt the conſtant practice of the Board to do otherwiſe.

That this was the practice, I deſire my Lord *Primate*'s Examination may be read to the ſecond, third, fourth, fifth and ſixth Interrogatories.

Thoſe his Examinations which were taken in the preſence of the Peers and Commons, taken this morning, being admmited to be read, and the former taken in the abſence of the Members of the Commons-Houſe, being declared to be ſuppreſſed. The ſame Examinations were read accordengly.

2. To the Second, he knows the uſe was to prefer Petitions to all the Chief Governors that have been within theſe fifty years laſt, but what hath been thereupon he cannot ſay. This my Lord of *Strafford* obſerved is to the Juriſdiction.

3. It is the received practice of that Board, that the Clerk of the Council, being a Sworn Miniſter, ſhould draw up the Opinions according to the Major part of the Board.

4. That he hath not known the Earl of *Strafford* to have at any time urged or preſſed any Member of the Board contrary to his own Opinion.

5. That he hath heard him divers, times profeſs he had but a ſingle Voice, and that Matters were to paſs according to the major part of the Voices of the Board.

Whence my Lord of *Strafford* obſerved, That the Clerk of the Council, being a ſworn Officer, is perjured, elſe the greater part of the Board was againſt the Lady *Hibbots*.

Robert Lord *Dillon* being asked concerning the uſe of the Board in the Clerk of the Councils drawing up Orders, according to the major part of the Votes, and what he had obſerved in this particular Caſe. Lord *Dillon* a Witneſs.

He Anſwered, That the Clerk of the Council is a ſworn Miniſter of His Majeſty, and by duty of his Place is to take notice of the Votes, and accordingly to draw up the rough draughts of Orders, and to preſent them to the Board, to ſee whether they be to the ſenſe of the major part of the Votes. That he was preſent at the Council-Board when this Cauſe was Voted, but cannot ſay, upon his knowledg, it was drawn up according to the major part of the Voices at the Board, for he counted not the Votes; but that was an inducement to him to believe ſo, becauſe the Clerk of the Council drew it up ſo; and it is the Order of the Board, when the major part Votes, thoſe that diſſent, in regard their Votes are involved,

Article 8. do commonly Sign, and that he had ſeen ſome Sign to the Order which had given Vote againſt the Decree.

Being asked ſeverally how his Vote paſſed in this Order, and whether the major part did not Vote, whether my *Lord* of *Strafford* did not always ſubmit his Opinion to the major part, and whether in a Caſe that concerned my Lord *Renula*, there were eight at the Board, and four went one way, and four another, that my *Lord* of *Strafford*, would not over-rule it, but called in another, and deſired the whole buſineſs might be referred to him; whether before my *Lord* of *Strafford*'s reſtraint, this Order was queſtioned on this Point for want of the major part of Voices, and whether at the ſigning of it, or any time after, he heard any Councellor except againſt the Order.

His *Lordſhip* Anſwered, That he gave his Vote for the Decree, that he reckoned not the Votes, but conceives the major part were for it; that he remembers not my Lord urging any man to Vote contrary to his Opinion, or over-ruled it, but was content to let it go: That he remembers not the contrary, but my *Lord* ſubmitted to the major part of the Votes: That in the buſineſs betwixt my *Lord Renula* Plantiff and one *Ormesby*, he remembers there were but eight men at the Board, whereof my Lord-Deputy made one, and fore fell on one ſide, and four on the other, and my *Lord Renula* was then preſent, as he takes it, though withdrawn at the inſtant, and for ought he knows my Lord *Renula* can ſay ſomething to it. That when my Lord gave his Vote, he ſaid, He would not take the priviledge of caſting the Cauſe, but left it to an abſent Counſellor, and which way ſoever he inclined, the Cauſe ſhould go; and afterwards that Councellor did Vote againſt the the Opinion of my *Lord* Deputy, and the Order was drawn up ſo: That he never heard of any Complaint of the Order, nor heard of the buſineſs, till he came to the Board: That he doth not remember any Exception taken at the time of the ſigning the Order, nor at any time after.

Sir *Philip Manwareing* a Witneſs.

Sir *Philip Manwareing* being asked concerning the matter of the major part.

Anſwered, That he was preſent at the Council-Table, and his Vote went for the Decree, and he conceives the major part of the Table did ſo too, he is very confident of it; and he doth the rather believe it, becauſe he never knew the contray practiſe at that Board in any Caſe; beſides he knows the Clerk of the Council is a very faithful and careful Servant, being a ſworn Officer; and it is the duty of his Place to draw up Orders according to the major part of the Voices, and that no member of the Board took Exception at the ſigning of this Order that he knows.

For the matter of Impriſoning the Lady, my *Lord* of *Strafford* offered, That he hopes it's no great offence for the Deputy of *Ireland*, to ſay as much to a Subject that's bound to perform the Order of the Board, and doth not; I ought not (under favour,) favour lets in that Caſe; for if Obedience be not had, it is to no purpoſe Order ſhall be made.

For the words concerning Fining of her, I offer to your *Lord*ſhips, Conſideration, that one that gives Teſtimony thereof is Mr. *Hoy*, who is a party intereſſed, and to whom the benefit will accrue of whatſoever ſhall be recovered; and that your Lordſhips may remember what a ready ſtory he told, and wronged his memory, to deſire to ſpeak out of his Notes, for I never heard one ſpeak more readily, and conceive he is not in this particular ſo intire a Witneſs to convince me. That the other Witneſs

is

is Mr. *Hibbots* himſelf, a weak old man, that hath not Judgment ſufficient, but ſays forward and backward, and may be taken any way; Therefore his Teſtimony is not ſo ſtrong and binding. That ſuppoſe I had ſaid the words, they cannot make a Treaſon; Fining in caſes of Contempts being uſual in *Chancery* here, to enforce men to conform to Decrees. However, I ſtand not charged with it; and when it comes in its proper place and time, I truſt I ſhall make a fair and Juſt Anſwer in it. *Article* 8.

The laſt thing in the Charge, is the conveying of the Lands to Sir *Robert Meredith*, and others, to my uſe, which I deny in my Anſwer, and under favour, deny it ſtill.

For the Witneſſes offered,

I except againſt Mr. *Hoy*, as I muſt, under favour, as often as I mention it.

That the words ſpoken by Sir *Robert Meredith*, is only his ſaying, and offered here as a Report; and when Sir *Robert* ſpeaks for himſelf, I believe he will ſay another thing.

That the Teſtimony of Mr. *Fitzgarrett*, is but what Sir *Philip Percival* ſaid; and when Sir *Philip* comes to be examined himſelf, I truſt Your Lordſhips will find it otherwiſe, I having never ſpoke to Sir *Philip* in all my life, touching the buſineſs.

When my Lady *Hibbotts* complains of the injuſtice of the Decree, before Your Lordſhips; I hope I ſhall clear it in its proper place, but in the mean time it is no part of my Charge; and I dare ſay they would not offer ſuch a thing in Charge, to my Lord Keeper, or my Lord Chief Juſtice; or if they ſhould offer it, they know they ſhould have a rebuke; for Lawers muſt keep within the limits of the Charge; and therefore in this particular, I may reſerve my ſelf, without prejudice in Your Lordſhips Opinions, till it comes to its proper place; where I hope I ſhall juſtifie my Carriage to be Honeſt and Faithful, according to the Truſt repoſed *in me.*

His Lordſhip having finiſhed his Defence, the Manager began his Reply thereunto, in ſubſtance as followeth.

Mr. *Glyn*'s Reply.

That he ſhall not need to labour much in making a Replication, little being anſwered to the Charge, which he recited and opened.

That his Lordſhips Proceedings having in this matter been contrary to Law, they muſt reſt on their Lordſhips memory, the Act of Parliament cited before, the Inſtructions, and the Proclamation, the Exerciſe of a Juriſdiction on the Eſtate of a Lady, without the leaſt colour of Juriſdiction; whereas if there had been any, it would have been heard of.

That his Lordſhip anſwers nothing to his ſending for the party Petitioning bidding him go on with the Suit; and Propheſying, that he might have 500 *l.* more: That perhaps it is not material, whether the Order were juſt or unjuſt; and my Lord of *Strafford* will anſwer only to the Juriſdiction. But we obſerve, that yeſterday he made a great flouriſh to the juſtneſs of a Decree; let the Juriſdiction be what it will; and when he cannot juſtifie that, then he declines it.

That my Lord's Pulſe is ſtill beating, that this is no Treaſon, yet it is an Article to prove and conduce to the general Charge, of ſubverting the Laws; and though he pretends that theſe Circumſtances, of purchaſing the Lands to his own uſe, and ſpeaking to the party to proceed, and his Threats, are not to the purpoſe; yet under favour theſe, and his ſaying

Article 8. ing, when he perceived a great part to Vote againſt him, (though not the major part, as he ſays) that he could have kept it in his own hands, do come home to the point, That he hath exerciſed an Arbitrary Power, ſpecially when it is for his own benefit.

His pretence, that this Cauſe was heard before the Lords of the Council, and therein differs from that of my Lord *Mountnorris*, is no anſwer at all; for the Lords of the Council have nothing to do in matters of Freehold or Inheritance, when it concerns not Plantation, or the Church, or is ſpecially recommended.

That they concur with my Lord Primate's Examination, that the Clerk of the Council ſhould draw up Orders according to the major part of the Votes; but what he hath done in this caſe, they know not, and how far a Deputy might prevail with the Clerk of the Council, they ſubmit: And there is an expreſs proof of one of the Counſellors, that there was 11, or 12. againſt the Order, and nine for it.

And whereas it is ſaid, he is but a ſingle Witneſs, my Lord of *Corke* ſays, though he remembers not which way the major voice went, yet he remembers very well my Lord Deputy expreſt thoſe words, concerning the making of a Party; which ſhews that ſomething was done that did not agree with his will: And another Witneſs ſays, that Sir *William Parſons* told him, that the major Vote was againſt the Order.

And whereas my Lord *Strafford* pretends, that the Privy-Counſellor that told Mr. *Hoy*, there was more Voices for his Mother than againſt her, muſt be my Lord *Mountnorris* That is denied; and we deſire Mr. *Hoy* may in that point explain himſelf.

He hath called Sir *Philip Maynwaring*, and others, that would have teſtified the truth to his advantage; but not one of them expreſſes any thing to their knowledge, but as they believe it; becauſe by the Duty of his place, the Clerk of the Council ought to have drawn it up according to the Votes.

The Threats to Impriſon and Fine the Lady, and the kind of Threats are proved by two Witneſſes, with this addition by one, That He would crack her Eſtate; which ſhew a great fervency in my Lord of *Strafford* to have the Order performed; and why ſhould he be ſo earneſt, If he had not had ſome game to play afterwards.

If the Conveyance had not been to his own uſe, my Lord of *Strafford* would have provided his Teſtimony; being proved in whoſe name it was, and they both affirm it to be for the uſe of my Lord of *Strafford*.

Mr. *Hoy* being asked, whether the Counſellor who told him how the Votes paſſed, was my Lord *Mountnorris* or no;

He Anſwered, That Sir *James Erskyn*, ſince dead, gave him a Note of the Names: And that the Lord Arch-Biſhop of *Dublin* told him preſently after, the Vote went on his Mothers ſide.

Mr. *Palmer* obſerved, That the Lord of *Strafford* draws an Argument, that becauſe there was no complaint of the Order, therefore there was no miſtake; and deſired Mr. *Hoy* might be asked, why he made no complaint.

Mr. *Hoy* being accordingly asked;

Anſwered, That he was ready to come for *England*, and to take Ship, and that Evening he went to the Maſter of the Court of Wards, to take his

his leave of him, and to acquaint him with his going. That Sir *Paul Davis* being there, he and the Maſter of the Wards, deſired him to walk into the Study, and perſwaded him againſt his going, telling him of my Lord Deputy's great Power; and that he might as well run his head againſt a Rock, as have any Remedy againſt my *Lord of Strafford*, as the times go now; and this was very ſoon after the Decree, and as he conceives, between it and *Chriſtmas* following. *Article* 8.

Being asked, whether Sir *Paul Davis* ſhewed him the Order, and whether it was interlined; and by whoſe hand:

He Anſwered, That he was at the Clerk of the Council to have got a Copy of the Order, and ſaw the Order interlined with a ſtrange hand; and asking whoſe it was, Sir *Paul* told him, it was my *Lord* Deputy's.

Here my *Lord* of *Strafford* obſerved, that it is very ordinary for the Clerk of the Council to bring Orders to the Deputy, who if he ſees Cauſe, mends them. E. of *Strafford.*

Sir *Dillon* being asked, whether any that Voted in my *Lady Hibbots* Caſe did tell him, which way the Major part of the Votes in my *Lady Hibbots* Caſe went;

He Anſwered, That a little before his coming out of *Ireland*, ſpeaking of the Charge againſt my *Lord* of *Strafford*, and particularly of this Cauſe, one or two of the Privy-Council ſaid publickly, the major part of the Council was for my *Lady Hibbots*.

To this laſt part my Lord of *Strafford* anſwered, with a deſire that the Witneſs might be asked, whether Juſtice *Parſons* be not Father-in-Law to Mr. *Hoy*; And that this was ſince his my *Lord* of *Strafford*'s queſtioning. E. of *Strafford.*

And ſo the *8th* Article was concluded, being his Exerciſe of an Arbitrary Power over the Eſtates of His Majeſty's Subjects; though they have divers other Inſtances, as in the Caſe of the Earl of *Ely*, and my *Lord* of *Killdare*, the prime Earl of that Kingdom.

The

THE Ninth Article.

The Charge.

Article 9. That the ſaid Earl of Strafford, the ſixteenth day of February, in the Twelfth year of His Majeſties Reign, aſſuming to himſelf a Power above, and againſt Law, took upon him by a general Warrant under his hand, to give Power to the Lord Biſhop of Downe and Connor, his Chancellor, or Chancellors, and their ſeveral Officers thereto to be appointed, to Attach and Arreſt the Bodies of all ſuch of the meaner and poorer ſort, who after citation, ſhould either refuſe to appear before them, or appearing, ſhould omit, or deny to perform, or undergo all Lawful Decrees, Sentences and Orders, iſſued, impoſed, or given out againſt them; and them to Commit, and keep in the next Goal, until they ſhould either perform ſuch Sentences, or put in ſufficient Bail, to ſhew ſome reaſon before the Council-Table, of ſuch their contempt and neglect; and the ſaid Earl, the day and year laſt mentioned, ſigned and iſſued a warrant to that effect; and made the like Warrants to ſeveral other Biſhops, and their Chancellors, in the ſaid Realm of Ireland, to the ſame effect.

Mr. *Glyn*. MR. *Glyn* opened the Ninth Article, charging my Lord of *Strafford* with aſſuming of a Power a above Law, in granting of a general Warrant to the Biſhop of *Downe* and *Connor*, to attach ſuch perſons of the meaner ſort as ſhould not appear on their Citiation, to apprehend their Bodies, and bring them before the Council; an Act ſo high, that higher could not be unleſs it extended to Life, as my Lord *Mountnorris* his Caſe; to grant a Warrant at pleaſure contrary to Law, to apprehend the Bodies of his Majeſty's Subjects, that live under the protection of the *Law*; which if it be made good, will be of great might; and prove the Charge fully.

A Copy of the Warrant being produced, my *Lord* of *Strafford* excepted againſt it, as not to be read, by the proceedings of the Court, being not the Original.

To which the Council at the Bar anſwered, That that's the way to ſhelter any Crime, if none but the Original Warrants in ſuch Caſes ſhould be admitted; it being no Record that they may repair to it. And their Lordſhips being deſired that a Witneſs might be heard, what he can ſay for the

the atteſting of it; after which, it will be proper for their Lordſhips to judge of the Copy. *Article 9.*

Sir *James Mountgomery* Sworn, and asked whether he ſaw the Original Warrant; and whether this be a true Copy? Sir *Ja. Mountgomery* a Witneſs

He Anſwered, He can depoſe, that he hath ſeen the Original Warrant, and read it; and that the Biſhop of *Derry* did ſhew it himſelf. That this Copy, he believes, both in matter and words, to be a true Copy; for he hath another Copy agreeing with this; and that he knows this Warrant hath been put in Execution many times; and he himſelf hath been Charged to aſſiſt them that have put it in Execution, by virtue of this Warra nt.

Thereupon the Warrant was read; being in effect as followeth.

By the Lord Deputy.

FOraſmuch as We have been informed by the Right Reverend Father in God the Lord Biſhop of *Downe* and *Conner*, that the moſt frequent Offences againſt God, and the greateſt Contemps againſt the Eccleſiaſtical Juriſdiction, are Committed by the meaner and poorer ſort of People in that Dioceſs; whoſe faults, for the moſt part, eſcape unpuniſhed, by reaſon the Writ *de Excommunicato Capiendo*, is ſo long before it can be ſued forth, and Executed on them, that they remove to other parts, and cannot be found; or if they be taken, their Poverty is ſuch, that they cannot ſatisfie the Sheriff, and other Officers Fees, due for taking them on that Writ; whereby the Officers become negligent, and backward of doing their Duties. We therefore deſiring the ſuppreſſion of Sin, and Reformation of Manners, have thought fit to ſtrengthen the Eccleſiaſtical Authority of the ſaid Right Reverend Father in God, the Lord Biſhop of *Downe* and *Conner*, with our Secular Power, and do therefore hereby give Power and Authority to the ſaid Lord Biſhop, his Chancellor or Chancellors, by their ſeveral Officers by them to be appointed, to Arreſt and Attach the Bodies of all ſuch of the meaner and poorer ſort, that after Citation, ſhall refuſe to appear before them, or appearing, ſhall omit or deny to perform and undergo all Lawful Decrees, Sentences, and Orders, iſſued, impoſed, and given out againſt them, and them ſo Arreſted to Commit, and keep in the next Goal, till they ſhall perform ſuch Sentences, or put in ſufficient Bond, to ſhew ſome reaſons before the Council-Table, of ſuch their Contempts, *&c.* willing all Juſtices of the Peace, *&c.* in that Dioceſs, to be Aiding, *&c.* as they *&c.* Given, *&c. Febr.* 16, 1636.

Tho. Little.

Mr. *Glyn* opened the ſeveral parts of the Warrant, and offered, that it was expreſly againſt Law, puting their Lordſhips in mind of the former words, That he would make an Act of State equal to an Act of Parliament: But now he is better than his word; for he will make an Act of State higher than an Act of Parliament: For whereas by the Law, no Subject of the Kings, in any Eccleſiaſtical Court, may be taken till he be cited; and then on diſobedience, he is Excommunicated; and on Excommunication, there is a Writ called *Capias Excommunicatum*, by virtue of which

Article 9. he is apprehended. Now my Lord of *Strafford* iſſues a Warrant to take him, if he appear not on Citation, breaking through the *Law*, and making no matter of that, but he will make a *Law* that extends to the Liberty of the Subject.

And if this had never been put in Execution, it had been all one to the purpoſe of the Commons; for this ſhews how, being intruſted with the King's Law in *Ireland*, he diſcharges that Truſt. But for Execution, they deſired Witneſſes might be heard.

Sir *James Mountgomery* being asked, how this Warrant was Executed; and the King's Subjects uſed under colour of his Authority:

He Anſwered, That he hath ſeen ſeveral Warrants that have iſſued under the Hand of the Biſhop of *Downe*'s Chancellor, ſometimes to the Conſtables, ſometimes to his own Apparitors, with their Aſſiſtance for to apprehend the perſons under-named; That there have ſometimes twenty, ſometimes thirty, ſometimes more, ſometimes leſs names, been put in the Warrant. That he hath known them executed with great cruelty, ſometimes wounding, beating, impriſoning them.

Being asked on my Lord of *Strafford*'s motion, how long ſince he knew any thing done upon that Warrant:

He Anſwered, Since the time of the Warrant granted; and he thinks the Warrant bears date *February* 1636. till of late, much about this time Twelve-month, which was the laſt time he was charged himſelf, to be aſſiſtant to the Execution of it. That he heard the Biſhop of *Derry* had taken up the Warrants in Summer laſt, on many and frequent Complaints that had come; and had withdrawn it from the Biſhop of *Downe* about *July* laſt.

Mr *Glyn*. The Manager cloſed this Article, obſerving, that my Lord of *Strafford* not only takes this Power, but gives it over to others; and ſee how they do execute it over the King's Subjects; Knights, and Men of Eminency muſt be called to aſſiſt; and therefore it was high time to accuſe my Lord of *Strafford* of ſubverting the *Laws* of *Ireland*.

And ſo expected his Lordſhips Anſwer.

My Lord of Strafford *began his Defence, in effect as followeth.*

E. of *Strafford*. Such Warrants have been uſually granted to the Biſhops of *Ireland*, in times of all former Deputies.

But not ſatisfied with the convenience thereof, I refuſed to give ſuch Warrants generally, as was formerly uſed.

Being informed that divers in the Biſhoprick of *Downe* gave not fitting Obedience, I gave this Warrant, being the only Warrant of this kind that I granted; and hearing complaints of the Execution of it, I called it in again.

They have produced only a Copy of the Original Warrant, and what words may be omitted that's in the Original, God knows; and I think, under favour, it would not be an Evidence at the *Kings-Bench* Bar.

And this ſtands with the practice of former Deputies, to grant ſuch Warrants of Aſſiſtance to the Biſhops.

The

Article 9.

The Lord Primate of Ireland, *his Examination read,*

To the *7th* Interrogatory, That he remembers his immediate Predeceſſor in the Biſhoprick of *Meath* told him, he had a Warrant of Aſſiſtance from the then Lord Deputy, who was either the Lord *Chicheſter*, or the Lord *Grandiſon*; That the Recuſants in his Dioceſs deſired it might be ſo, for the ſaving of thoſe Charges which would come on them by the Writs *de Excommunicat' Capiendo.*

Robert Lord *Dillon*, being asked, Whether he had known formerly ſuch Warrants to be granted, and by whom?

He Anſwered, He hath heard Writs of Aſſiſtance have been granted by former Deputies, but he remembers not that ever he ſaw any.

Mr. *Tho. Little* being asked, Whether this Warrant was granted according to former Preſidents:

He Anſwered, That he hath ſeen one of the Original Warrants before my *Lord*'s coming there; and that it was brought to him to draw another by; And going to inſtance in ſome Copies ſeen in my *Lord* of *Faulkland*'s Book of Entries,

The Manager excepted againſt him, for medling with a Book formerly over-ruled. Mr. *Glyn.*

Mr. *Little* proceeds, That he hath ſeen an Original Warrant by which this was drawn, and it was under my Lord of *Faulkland*'s hand; and this was made according to that pattern.

Being asked, Whether my Lord of *Strafford* did not reſtrain, and give direction to him not to iſſue any other Warrant of that nature:

He Anſwered, There was no more made but this, though divers required them, my *Lord* forbiding him at all times afterwards.

My Lord of *Strafford* offered his humble requeſt to their *Lord*ſhips, that in all things that concern the *Iriſh* Charge, they will pleaſe to remember, it was not poſſible for him to procure any Witneſſes in this ſhort time of his Trial, having not liberty till *Friday* was ſeven night; Theſe things being notorious, and might have been cleared if he had had time. E. of *Strafford.*

He added, That whether this be a true Copy of the Warrant or no, I cannot tell, but likely enough it is.

That it was moved for by the Biſhop of *Downe* and *Conner*, to whom, for ſome reaſons, I was willing to grant it; but being afterwards told by Sir *George Ratcliffe*, that he doubted whether it was *Legal* or no, I called it in again, and never granted any but this.

That (as appears in the proof) I ſent to the Biſhop of *Derry*, and deſired him to call in the Warrant, and ſo he did long before this complaint: And thence I infer, that it could not argue my intention to break the ſame.

Whereas the Gentleman at the Bar ſaid, that I had been better than my word; for I had ſaid, an Act of State ſhould be as good as an Act of Parliament; but here I made an Act of State better than an Act of Parliament. I obſerve, That he is willing to make me better than my word, when it may be for my diſadvantage; but is willing to make me worſe than my

Article 9.

word, when by diſproving me, he may hurt me. That therefore it befits me to do as well as I can for my ſelf in this caſe; yet not to take it amiſs from the Gentleman, who doth but his duty.

Finally, I conceive it no Treaſon in me to follow the Preſident and Practice of thoſe which have gone before me, which though it be not altogether ſo Legal, yet I hope it is not Treaſonable. Nor is it Treaſon to miſtake the Law; if it ſhould, there would be more actions of Treaſon than Treſpaſs in *Weſtminſter-hall*; for I think few underſtand it, I do not I am ſure.

And ſo I hope this will never riſe up in Judgment againſt me in its ſelf, or as a concurrant Argument towards Treaſon.

Mr. Glyn *replied, in ſubſtance as followeth:*

Mr. *Glyn.*

What my Lord of *Strafford* is charged with, he confeſſes to be an Authority above Law; and that is not juſtifiable.

Yet he would juſtifie it by the practice of his Predeceſſors, wherein the examination of my Lord Primate, offered for Proof thereof, aggravates the Offence, the Warrant therein mentioned, being procured at the Requeſt of the Papiſts; and perhaps it might be ſo now: but the Proteſtants have been Oppreſſed by it. That was to ſave the charge of a *Capias Excommunicatum*, which was the Proceſs iſſued upon Excommunication; but by this Warrant they muſt be taken on the Citation, down-right Club-Law, having in ſimilitude the Civil-Law.

That his own Secretary that made the Warrant, and is as guilty as himſelf, tells of a Preſident, according to which he made this; Therefore the Copy produced is a true Copy, elſe he ſays not truth.

That whereas his Lordſhip ſays it is a ſingle Act, and as ſoon as he had notice of the Illegality of it, he recalled it, and therefore it ſhould not be laid to his Charge: Indeed if it were a ſingle Act, this Anſwer might be taken; but when in the Caſe of my *Lord* of *Corke*, his Inheritance was to be determined, and deſired the benefit of the *Law*, did my Lord of *Strafford* ſuffer the courſe of Law to go on: Now when he is pleaſed to make an excuſe for himſelf, he calls it in; but when in matter of Life and Inheritance concerning Peers, Right is demanded, he denies it. If this ſingle Act be compared with other Exorbitant Proceedings, we refer it to Your Lordſhips Wiſdom and Juſtice, whether it be not a ſtrong Evidence to prove his ſubverting of the *Laws*.

After ſome diſcourſe touching their proceeding on with the 10*th* Article, for that the ſame would hold long, the day far ſpent, and my Lord *Cottington* and Sir *Arthur Ingram*, material Witneſſes for my Lord of *Strafford*, (as he alledged) were abſent; for whoſe Examination his Lordſhip deſired a Commiſſion, Their Lordſhips Adjourned the Houſe.

The

The Ninth day.

Wedneſday, March 31, 1641.

THE Tenth Article.

The Charge.

That the ſaid Earl of Strafford being Lord Lieutenant, or Deputy of Ireland, procured the Cuſtoms of the Merchandize Exported out, and Imported into that Realm, to be farmed to his own Uſe. Article 10.

And in the Ninth Year of His now Majeſties Reign, he having then Intereſt in the ſaid Cuſtoms (to advance his own Gain and Lucre) did cauſe and procure the native Commodities of Ireland, to be rated in the Book of Rates for the Cuſtoms (according to which the Cuſtoms were uſually gathered) at far greater Values and Prices than in truth they were worth (that is to ſay) every Hide at Twenty ſhillings, which in truth was worth but Five ſhillings, every Stone of Wooll at Thirteen ſhillings four pence, though the ſame were really worth but Five ſhillings, at the utmoſt Nine ſhillings; by which means, the Cuſtom, which before was but a twentieth part of the true value of the Commodity, was enhanced ſometimes a Fifth part, and ſometimes to a fourth, and ſometimes to a third part of the true value, to the great Oppreſſion of the Subjects, and decay of Merchandiſe.

MR. *Maynard* proceeded to the 10*th* Article, ſaying, They had ſhewed what my *Lord* meant to do, what he threatned, what he did concerning the Lives of His Majeſties Subjects, What advantages he found to order there Tongues, to cut off their Heads; but he reſted not there, Their Lordſhips have heard how he Executed one without Law; The ſubſequent Articles were under colour of Law, to take away the Subjects Lands to diſtribute them in a way of Juſtice; and yet they come to his own profit. Now the 10*th* Article charges him, that he did procure to Farm to his own uſe, the Cuſtoms of *Ireland*, that he inhanced thoſe Cuſtoms, procured a Book of Rates to be made,

Article 10. made, and Goods valued Treble to the worth of the Commodity; inſtancing in two particulars Woolls worth 5 *s.* the Stone, or at moſt Nine, rated up to 13 *s.* 4 *d.* and a Hyde valued at 20 *s.* which was in truth worth but 5 *s.* That theſe High values Were put upon them to increaſe the Cuſtoms. That my Lord of *Strafford* in his Anſwer, pretends it not to be done for his own benefit, but for the advantage of His Majeſty, and gives ſome Colours, which are left to himſelf to open and prove. That they ſhall prove the Fact to be done for his own advantage, to the great deceit and diſadvantage of His Majeſty.

The Caſe was ſtated thus.

His Majeſty King *James* did in the 16*th* year of his Reign, Leaſe to the Duke of *Buckingham*, the Cuſtoms of *Ireland* for 10 years: In which *Leaſe* there were Exceptions and Agreements of Defalcations, as the Cuſtom of Wines, which were Leaſed to my Lord *Carliſle*, at the Rent of 1400 *l. per annum* to the Crown; and on this *Leaſe* was reſerved 6000 *l.* a year Rent, and half the clear profits above the Rent; which half did amount to 3700 *l.* a year. There was a ſecond Leaſe made to the Dutcheſs of *Buckingham*, being in the time of 7 *Car.* who was to have a certain ſum out of the Leaſe, but the profit was for my Lord of *Strafford* and his Partners. Mr. *Maynard* obſerved the difference of the two Leaſes; and ſhewed, that it was not only a bargain of loſs to His Majeſty, of what he had, but alſo a bargain by way of advancement of that which was not by inhancing the values.

Which he demonſtrated thus; The King out of the firſt Leaſe to the Duke 6000 *l.* and 3700 *l.* that is, 9700 *l.* by the latter *Leaſe* 11050 *l.* ſo at firſt view, 1350 *l* gain, beſides the Fine pretended to be paid; but in lieu thereof the Leaſe to my Lord of *Carliſle* was procured to be ſurrendred, upon which the King had 1400 *l.* a year Rent before the Dutcheſs, that is now my Lord of *Strafford*'s Leaſe, was Sealed; which 1400 *l.* a year, is not reſerved in the ſaid latter Leaſe, the ſurrender being 21 *Mar.* the Demiſe 24 *Mar.* So that 1400 *l.* a year is ſwept away by my Lord of *Strafford*, inſtead of 1350 *l.* by way of advance.

Beſides the ſurpluſage of the profit of the Farm of Wines, Demiſed to my Lord of *Carliſle*, amounted to 3400 *l.* a year ſometimes an odd 500 *l.* ſometimes, 200 *l.* but *Communibus annis*, it was above 3000 *l.* And this being by Surrender, drawn into my Lord of *Strafford*'s purſe, but out of the King's purſe, and that not only by way of gift; for this ſurpluſage above the 1400 *l. per annum* on the Wines, was to be made good out of the 11050 *l.* So that out of the 11050 *l.* there is drawn from His Majeſty 4500 *l.* inſtead of an advance of 1350 *l.* And it reſts not here, for beſides theſe, the Cuſtoms of *London Derry*, and *Colerane*, worth 1500 *l.* a year, and the Cuſtoms of *Knockfergus* and *Strangford*, (reſerved in the Duke's Leaſe) are ſtollen out by way of Defalcation in the Earl of *Strafford*'s Leaſe.

Beſides whereas the Duke of *Buckingham* had a moiety of the King's moiety, of all Seizures in caſe of mens concealing Cuſtom, or Landing Goods at unſeaſonable times, the Statute allowing to His Majeſty in ſome ſuch caſes a Moiety, in ſome caſes the whole, my Lord of *Strafford* by his Leaſe, muſt have all that belonged to the King.

And whereas the Duke of *Buckingham* had, for Merchants Goods that came in by way of prize, an allowance of Cuſtom. By the Leaſe of my Lord of *Straf-*

Strafford, whether they be the King's Goods, or his Subjects, Cuſtom muſt be paid by His Majeſty, to his own Subjects. *Article* 10.

Mr. *Glyn* obſerved alſo a ſtrange Clauſe in the new Grant, which is to the matter of Oppoſition and Subverſion of the *Laws*, That this Grant ſhall hold, whether it be repealed by Parliament or not: And further, the Rates are inhanced when they come to my Lord of *Strafford*'s Grant, in 12 particulars; ſo that the Cuſtoms which at that time were preſented as worth 12000 *l.* a year, fall out on proof to yield, ſeldom leſs then 40 ſometimes near 60000 *l.* a year; all which Gain hath gone out of the King's Purſe, and is in my *Lord* of *Straffords*, and his Partners.

The Leaſe made to the Duke of *Buckingham* was firſt read, as to the Grant, the Render, and the Defalcations, *Dat.* 23 *May*, 16 *Car.*

The Leaſe to the Dutcheſs of *Buckingham* was next read, dated 24 *Mar.* 7 *Car.* from the ſeveral parts whereof, Mr. *Maynard* obſerved the inhancing of the Rates; the Grant of the Wines, the payment of the Cuſtoms for the King's Prize-goods, the Cauſe touching the Repeal by Parliament, the Defalcations, the allowing the part of the King's Moiety of the Seizures, ſo formerly opened, to be fully manifeſted.

In this Leaſe there is 20000 *l.* conſideration by way of Fine, and 11050 Rent Received.

The Grant of the Surpluſage of the profit of Wines to the Earl of *Carliſle* above the ſaid 1400 *l. per annum* Rent, for the Remainder of fifteen years, was read.

Wherein is recited the original Grant under the ſaid yearly Rent of 1400 *l.* and the Surrender thereof to the Crown, 12 *Martii*, 7 *Car.*

They proceed to prove the Values.

And firſt Witneſſes were produced to prove, that by the Duke of *Buckingham*'s Leaſe, 3700 *l. per annum*, was anſwered to the Crown for the Moiety of the Surpluſage of profits, over and above the 6000 *l.* yearly Rent thereupon obſerved.

The Lord *Ranulagh* being asked to that point, Lord *Ranulagh* a Witneſs.

Anſwered, That he was a Partner in the Farm in the time of my Lord of *Faulkland*'s Government in *Ireland*, and on the Leaſe there was reſerved to the King over and above 6000 *l.* a ſurpluſage of the profits, which came to 3700 *l.*

To prove the value of the Wine-Cuſtoms above the 1400 *l. Rent, reſerved on the Earl of* Carliſle's *Leaſe, which was to be anſwered to the Earl of* Carliſle, *out of the* 1150 l.

Sir *James Hey* Sworn and interrogated to that point. Sir *James Hey* a Witneſs.

Anſwered, That in 1635. the late Earl of *Carliſle* ſent him into *Ireland*, to ſettle his affairs there, where he ſtayed almoſt 12 months; and then he received a years account of the Wines, which he hath to produce under the hand of the Auditor of that Kingdom, which is the money received for the profit of the Wines.

The

Article 10.

The Accompt was read, viz.

A Collection of what the Impoſt of Wines amounted to, according to the old Rates for the year ended, *March* 1635. in the ſeveral parts following, wherein all Wines diſcharged out of forraign bottoms, are rated as ſtrangers, *viz.*

The Total, 3787 *l.* 15 *s.* 9 *d.* Sterl. Out of which the ſum of 1400 *l.* the Rent formerly reſerved to His Majeſty out of the ſaid Impoſt defalked there will remain 2387 *l.* 15 *s.* 9 *d.*

Sir *James Hey* further ſaid, That 1636. my Lord of *Carliſle* dyed, and he will not depoſe for that years Accompt, but he conceives it is an Accompt ſent over from the ſame party: And that he had a Letter from an Officer of the Cuſtom-Houſe at *Dublin*, wherein he mentioned the Impoſt to amount to 5000 *l.* and upwards, either 1638, or 1639. but he is not certain which.

To prove the Value of the Defalcations of London Derry *and* Colerane.

Robert Goodwyn a Witneſs.

Robert Goodwyn ſworn; being asked what the Cuſtoms of *London Derry* and *Colerane* amounted to *Communibus Annis*:

He Anſwered, That the Cuſtoms received in the Town of *Colerane*, In-gate and out-gate, from 25 *Mar.* 1634. till 25 *Mar.* 1639. being for the ſpace of five whole years, as appears by the ſeveral Accompts thereof, is 1079 *l.* 6 *s.* 1 *d.* ½ That the Total of the Cuſtoms of *London Derry*, where he collected himſelf in-gate and out-gate, from the laſt of *Febr.* 1634. till *Michaelmas* 1639. as appears by the ſeveral Accompts thereof made by His Majeſties Commiſſioners for the City and County of *London Derry*, is 5348 *l.* 11 *s.* 10 *d.* That he ſhall acquaint their Lordſhips with the full Truth. Theſe were not Collected according to the Book of Rates, but at an under value. That all the Book of Rates 1634. and ſo forward to the laſt Book, do value Beef at 16 *l.* a Tun. But becauſe Beef is ſold in *Derry* and *Colerane*, for 6 or 7 *l.* a Tun at utmoſt; therefore he was directed by the City of *London* to take 6 *s.* after the rate of 6 *l.*

Then for Hydes, theſe Books of Rates value a Hyde at 12 *s.* and where he ſhould have taken 6 *d.* he received by direction of the City but 2 *d.* at the Infancy of the Plantation, and for the good of the place, which the City tendred.

Henry Brawd a Witneſs.

Henry Brawd Sworn, and examined to the ſame matter.

Anſwered, according to the Depoſition of *Robert Goodwyn*, for the value of the Cuſtoms of *Colerane* and *London Derry*.

To prove the value of the Farms in Ireland.

John Welſh Sworn, and examined to that point.

Anſwered, That he can ſpeak nothing of knowledge, but only by here-ſay.

Article 10.

To prove the value of the Customs, as increased on the New Book of Rates.

Robert Cogan Sworn and Examined to that Point.

Robert Cogan a Witness.

Answered, That he never cast them up in particular, but he did estimate them before they took the Farm to be worth 10 or 12000 *l.* a year.

Here on my Lord of *Strafford*'s motion, Mr. *Cogan* was asked, Where he now lives?

He Answered, In *London.*

To prove the increase of Customs 1636, 1637, 1638, 1639.

John Welsh Examined to that Point.

John Welsh a Witness.

Answered, That he was directed from the Committee to come hither: That he went into the Exchequer-Office, and took notice of some Books there, presented to him by one of the Officers of the House, and he Collected these four years, 1636, 37, 38, and 39. and as they came to his hands he put them down, 1636. they came to 39936 *l.* 1637. 38889 *l.* 1638. 57380 *l.* 1639. 55582 *l.*

Being asked concerning the value of Hydes, Wooll, and Tallow.

He Answered, That he knew the values very well, being Commodities he deals in daily: That he hath bought Hydes for 3 *s.* some 4 *s.* some 5 *s.* and very few exceed these Rates.

And in their Parts they ordinarily give 50 *l.* a Last, which is 200 Hydes, and then they have ordinarily 30 or 40 Hydes on the Last to make them full Hydes. For Wooll there is of 3 *s.* 4 *s.* 5 *s.* 8 *s.* 9 *s.* and that's the highest price he ever paid, or knew any of his Neighbours to pay, he living in *Waterford.*

Whence Mr. *Maynard* observed, That a Hyde of 5 *s.* is rated at 20 *s.* and 9 *s.* the uttermost for Wooll, rated at 13 *s.* 4 *d.*

Lord *Renula* being Interrogated to the value of the Customs 1636, 37, 38, and 39.

Lord *Renula* a Witness.

He Answered, That all he knew of it is this, about *Christmas* last he called on the Remembrancer of the Office of Exchequer, that keeps the Books of the Customs, he desired a Note of the value of the Customs for three or four years back, and the Officer gave him a Note 1636, 37, 38, 39. which Note he hath, but forgot to bring it with him this Morning. But to the best of his remembrance the value of the Customs for these years is thus, 1636. either 38, or 39000 *l.* and some odd hundreds, 1637. 39000 *l.* and odd, 1638. is the greatest year, and then it was 57000 *l.* and 1639. 55000 *l.*

Patrick Allen Sworn, and examined to the value of Hydes and Wooll in *Ireland.*

Patrick Allen a Witness.

Answered, That he hath bought Hydes at 4 *s.* 4 *s.* 6 *d.* 5 *s.* and 6 *s.* the most that ever he knew any pay for Hydes; for Wooll there is a course *Irish* Wooll not worth 4 *s.* some is worth 6 *s.* some 7 *s.* 8 *s.* but 11 *s.* is the most that ever he knew paid for Wooll.

Article 10. And ſo Mr. *Maynard* cloſed the Article, and left it to their Lordſhips Conſideration, what the King hath left, what profit my Lord of *Strafford* hath received.

To which my Lord of Strafford *made Defence, in ſubſtance as followeth:*

E. of *Strafford's* Defence. I ſhall, under favour, proceed to make a juſt Defence of my ſelf, as to this Impeachment of Treaſon brought againſt me by the Honourable Houſe of Commons, for that is the thing in queſtion, and which I ſhall only Anſwer unto, as being Charged with nothing elſe.

I deſire I may read the Charge, and then Your Lordſhips will ſee how pertinently the time hath been ſpent in the proving of it.

He reads his Charge as to the Tenth Article.

With humble ſubmiſſion to Your Lordſhips great Judgments, I conceive there is nothing in this Charge, that can by any Law that ever I heard of, be brought to be Treaſon.

Theſe Gentlemen have told Your Lordſhips what His Majeſty loſt by a Contract with the Dutcheſs of *Buckingham*, which I conceive concerns not me at all, being no Party to it.

If the Dutcheſs, by her Grant of 24 *March*, 7 *Car.* had more Priviledge than the Duke of *Buckingham* had for the 10 years preceding; yet by their own ſhewing here is 20000 *l.* Fine, and an increaſe of 1350 *l.* a year Rent, ſo that there was a Conſideration for it.

That theſe Twelve Commodities were raiſed, and the value inhanced on that Conſideration 24 *March*, 7 *Car.* but the Leaſe wherein himſelf was Partner bears Date 21 *April* after; So that the Book of Rates was not raiſed by me, but by them that had care of the buſineſs between the King and the Dutcheſs of *Buckingham*: And this being ſet by the King's Officers, to whom it was proper, in the 7*th* Year of the King, it falls very ſhort of what is Charged in the Article, that I ſhould do it in the 9*th* Year of His Majeſty's Reign. If they can ſhew a Book of Rates raiſed the 9*th*, it may be ſaid he hath raiſed the Book for his advantage, for then he had a quarter part of the Farm, and the King hath $\frac{5}{8}$ parts to himſelf; and theſe things have been tumbled and toſſed over and over again, and fully anſwered in another place, and I ſhall be well able to anſwer it ſtill, that the King hath had as great a Service done in this particular, as may be in this matter. But that is not the queſtion of the day, I am charged with raiſing a Book of Rates in the 9*th* Year of the King, and if there be any ſuch Book, it is more than I ever ſaw, I know of none but that which was ſetled in my Lord of *Portland's* time, before I had any Intereſt in the Farm, which I think will go far to my clearing in this Point.

Whether theſe Rates be indifferently ſet or no, is a buſineſs for Merchants, and matter of Proof, and if it ſhould be Charged on me as a Crime, I hope Your Lordſhips will allow me time to examine Witneſſes, and likewiſe Council. But I conceive it can be no way conducing to me as a Crime, and as a Treaſon I think Your Lordſhips Judgments will clear me, and that's my Anſwer as to the Book of Rates, and I think a clear one.

For

For the values, your Lordſhip may be pleaſed to conſider, that it may be a loſs to the Farmer, and conſequently to the King who hath five parts of eight. But it can be a Crime to no body, and I hope your Lordſhips give time to prove the point of value. *Article* 10.

Your Lordſhips may ſuppoſe I know not the price of Hydes, and Wooll, and Tallow, being out of my Calling; but their worth will appear to be ſuch, that the Duty is but taken according to the Articles of Tunnage and Poundage, that give this Duty to the Crown. For Tunnage and Poundage in *Ireland* is of another kind than in *England*, for here it is given Temporally, but it is an Inheritance to the Crown in *Ireland*, being 15 *H.*4. given to the King and his Heirs; and producing the Book of Rates, his Lordſhip ſaid, That nothing is taken but what is juſtly due by that Book. And if Merchants (who ſpeak for their own advantage) be reſted on for the price of things, the Cuſtoms will be little. But this Book of Rates was ſet by the Lord Treaſurer that then was, and juſtly and fairly I think, and accordingly Cuſtoms have been taken; and when it ſhall be laid to my Charge in a proper way, I ſhall give ſuch ſatisfaction, as to clear my ſelf of the leaſt Fraud or Deceit to my Maſter, and in the mean time I know your Lordſhips are ſo juſt as not to prejudice me in this matter.

I will now ſhew how I came into the buſineſs of Farming the Cuſtoms, not voluntarily, or upon my Suit, nor did I ever intend it, but was commanded and enforced to it, and came in meerly for the doing of the King a Service; and if it prove a Bargain of advantage, I never knew the making of a good Bargain turned on a man as Treaſon. It was juſtly, fairly, and honeſtly procured, and prove it never ſo beneficial, that can never make it a Crime.

His Majeſty hath been from time to time acquainted with the increaſe of the buſineſs moſt exactly and truly, it riſing indeed beyond all imagination; the Cuſtoms, when we entred on them, being but 12000 *l. per annum*, and now your Lordſhips ſee what is proved, and may judge with what truth they inform, in the Remonſtrance, out of *Ireland*, That Trade is decayed.

On their own ſhewing, by the Teſtimony of my Lord *Renula*, and others, it appears, that when they were Farmers, there was 6000 *l.* paid to the King, and a Devident of the other moity, which came to 3700 *l.* So the whole value of the Cuſtoms, was then 13400 *l.*

His Lordſhip deſired that my Lord *Cottington* might be asked a few Queſtions.

Lord *Cottington* being asked, Whether in the Seventh year of the King there was not a Bargain concluded by the late Lord Treaſurer, the Earl of *Portland*, with Captain *Williams*, Captain *Henſhawe*, and others, for the Cuſtoms of *Ireland*, paying 15500 *l.* Rent, and 8000 *l.* Fine. Lord *Cottington* a Witneſs.

His Lordſhip anſwered, that he conceives my Lord of *Portland* reſted ſatisfied, that he had made that Bargain for the Rent and Fine, and that he ſo underſtood it, as to acquaint His Majeſty with it, and underſtood it to be a very good Bargain.

Being asked, Whether did not *Williams* afterwards relinquiſh the Bargain.

His Lordſhip Anſwered, That he well remembers he did refuſe it, and he thinks he refuſed it, becauſe *Henſhawe* was the chief man in it, and he died, and thereupon *Williams* flew off. And that my Lord of *Portland*

Article 10. was very much troubled; becauſe *Williams*, and the reſt fell off, as he remembers.

Being asked, Whether after thay had given it over, any body would give ſo much as they offered.

He Anſwered, He thinks there was no body that came near it, at leaſt he never heard ſo.

Being asked, Whether after it was ſo left, it was not undertaken by Sir *Authur Ingram*, and his Partners, on the very tearms that *Williams* refuſed it, paying only 100 *l.* a year more Rent.

He Anſwered, It is very true, Sir *Arthur Ingram*, and divers Partners, by his procurement, paid 100 *l.* more Rent, and, as he takes it, the ſame Fine, but for a quicker time; for the firſt men were to have time, and Sir *Arthur Ingram* was to payed all read money.

E. of *Strafford*. My Lord of *Strafford* here added, That *Henſhawe*, and the reſt, having given over the Bargain, himſelf went to my Lord at *Rohampton*, and found that theſe other Partners that had it afterwards, would undertake the Farm, if he the Earl of *Strafford* would be a Partner with them, which was a thing he never intended, but refuſed.

Therefore on his Lordſhips Motion

L. *Cottington* a Witneſs. Lord *Cottington* was further asked, Whether being moved by my Lord of *Portland* to come into the Farm, he the Earl of *Strafford*, did abſolutely tell my Lord of *Portland*, that he would not meddle therewith, not knowing how it would be interpreted; that he being the King's Deputy ſhould be a Farmer.

His Lordſhip Anſwered, that he well remembers my Lord of *Portland* did conceive that to draw in theſe latter Farmers; it was very neceſſary, and all the Succor they had to have my Lord of *Strafford* a Partner in it; becauſe they conceived they ſhould thrive in the Bargain, if he having ſo great a Power, were a Partner; ſo it lay in my Lord of *Portland* to perſwade him to yield to it; and my Lord of *Portland* told him, That if my Lord of *Strafford* would do the King that Service, he ſhould not loſe by it. And though my Lord of *Strafford* was unwilling to come in for a part, yet at laſt he did, and his coming in, drew in the reſt, as he the Lord *Cottington* thinks. And further that my Lord *Portland* told the King of it, and prepared the King to command him for the making of the Bargain, depending on his taking of a part.

E. of *Strafford* My Lord of *Strafford* here obſerved, That he humbly conceived the Goodneſs and Grace of the King, and the love of my Lord of *Portland* was ſuch at that time, that they would not have brough thim into a buſineſs that ſhould be laid to his Charge as Treaſon.

L. *Cottington* a Witneſs. Lord *Cottington* being, on Mr. *Maynard*'s motion, asked about the time, whether it was 7 *Car.*

His Lordſhip Anſwered, That he muſt refer himſelf to the Grant, for the Leaſe my Lord of *Strafford* ſhewed did follow immediatly after.

Sir *Arthur Ingram* a Witneſs. Sir *Arthur Ingram* being, on my Lord of *Strafford*'s Motion, Examined to divers of the Points before propoſed to the Lord *Cottington*.

He

Article 10.

He Anſwered, He conceives there was a Bargain made by my Lord Treaſurer and my Lord *Cottington*, with *Williams* and *Henſhawe* for 15500 *l.* a year, and, as he conceives, 8000 *l.* Fine, and this was under their hands in writing, as he heard.

That he knew nothing that my Lord of *Strafford* was to be a Partner, or to have any Intereſt in it.

That he conceives *Williams* did clearly refuſe it after *Henſhawe*'s death, what other Reaſons he had he knows not; That he cannot tell, nor doth remember, that my Lord of *Strafford* uſed means to perſwade *Williams* to ſtand to that Bargain; but certainly *Williams* was perſwaded much by my Lord of *Portland*.

Being asked, Whether it was ſo left by *Williams*, did not he and his Partners undertake the Farm?

He Anſwered, That he was ſeveral times offered to come into that Farm, and from time to time refuſed it: That *Williams* preſſed him exceeding much, and others before him; and he is moved to it by one *Cogan*, but refuſed it.

That the truth is, his Son *Arthur Ingram* was Partner in it, and there came in my Lord *Mountnorris*, Sir *George Ratcliffe*, and one *Cogan*, that they laboured much he ſhould take the Farm, and he had much ado to be brought in.

Being asked, Whether theſe came in upon the ſame Tearms offered to *Williams*?

He Anſwered, It will appear on the Warrant to the then Attorney, Sir *Robert Heath*, that they paid 15500 *l.* and 8000 *l.* Rent, and whereas the Officer ſhould have paid it at ſix and ſix months, theſe were to pay ready money.

Being asked, Whether he had moved my Lord of *Strafford* to be a Partner in it,

He Anſwered, That he doth not remember he ever ſaid ſo, but it might much encourage him to come in, if my Lord of *Strafford* were a Partner. But he the Examinant had no ſuch great cauſe to deſire it, for he was not in three years, but his Son was put out again; when it came to matter of profit they were gone.

E. of *Straffond.*

To this my Lord of *Strafford*, did by the way, Anſwer in ſubſtance, That His Majeſty gave Conſideration for it, and had the benefit himſelf.

And ſo, I hope, I have cleared how I came into the Bargain, and that I cannot be charged with procuring the Book of Rates, it being Printed 10 *March*, and my Leaſe began 21 *April* after, and that the Right being in the Crown, Your Lordſhips will not conclude it, till you have heard it for the King, it being His loſs in $\frac{5}{8}$ parts, which was intirely His.

And whereas I am Charged with raiſing the Book of Rates (though done before my time) yet I was taught here in *England* that they might have been raiſed to a much higher Rate than they were, and to that purpoſe there came a Letter from His Majeſty, whereby in 1637. a Propoſition was made of raiſing the Rates, the Book being conceived not to be ſo high as it ought to be.

His Majeſty's Letter was read, Mr *Slingsby* affirming it to be a true Copy, and that he ſaw it compared with the Original. Imparting, That His Majeſty finding the Impoſitions ſet, on Merchandize of all Ports, to be well accepted, and to have ready and free paſſage, had Reſolved, That ſuch Impo-

Article 10. Impoſitions be laid in *Ireland* as be fit for that Kingdom, and to that end had cauſed a Book to be drawn, with fit Conſiderations of the difference of Trade in both Kingdoms, which was ſent to my Lord of *Strafford*, to adviſe of the Particulars, who, if he found that any may bear a greater proportion, he may add what he will; if he find any over-rated, he may deliver his Reaſons to be conſidered, and Regulated by His Majeſties Committee here, Dated the 10*th* of *July*, 1633.

E. of *Strafford*. My Lord of *Strafford* obſerved, That at the date of this Letter, he had an Intreſt in $\frac{1}{4}$ part of the Farm, and deſired that my Lord *Dillon* might be asked, how my Lord of *Strafford* carried himſelf in it.

Lord *Dillon* a Witneſs. Lord *Robert Dillon* being asked, Whether my Lord of *Strafford* did not joyn with the Council to diſwade it.

He Anſwered, That he was at the Board when the Original of this Letter was read, as he takes it, for there was brought with it a Book of Rates, that he remembers not the particular words of my Lord of *Strafford*; but he is ſure, by the whole Board, the entertainment of thoſe Rates was diſadviſed. And it was Reſolved a Letter ſhould be written to diſ-adviſe it; but he remembers not when the Letter was written.

E. of *Strafford*. Whence it may be obſerved, That I was not very tender of my own profit, which laid to the other, I hope, will clear me of this Article, wherein there is nothing of Treaſon; and nothing can be imputed to me, unleſs that the Kingdom of *Ireland*, is under the King's bleſſed Government, an increaſed and growing Kingdom, and the Trade enlarged to ſuch a proportion as makes the Cuſtoms of far more value than they were heretofore, ſhould be turned on me as a Crime. And as for Treaſon, your Lordſhips ſee no Complexion towards ſo foul a Crime, and for all things that may reflect on me as Miſdemeanors, in due time and place, I truſt, I ſhall clear my ſelf from that as well as I do from this Charge of High Treaſon.

Mr. Maynard *Replyed thereunto in ſubſtance as followeth*:

Mr. *Maynard*'s Reply. That whereas my Lord of *Strafford* ſays, That to prove the matter of profit to himſelf, of loſs to His Majeſty, *is impertinent*: they Charge, that what he did was for his own Lucre. He Anſwers, That what he did was for His Majſty's Profit. Therefore whether it be for his Lucre or not, is in iſſue, and that they have proved; and that which he puts in iſſue is not to the purpoſe, nor proved.

Whereas, he ſays, This Article is not Treaſon, yet look to the whole body of the Charge, his taking away the property of the Subjects, his inducing this by ſubtilty, by force or advice, to bring it to paſs, if theſe be proved, their Lordſhips will be of Opinion with the Houſe of Commons, That it is a high and a great Treaſon. Therefore let him not ſay this or that piece is not Treaſon, let him Anſwer it if he can, That the ſubverting of the Fundamental Laws be not a great Treaſon.

My Lord takes advantage, that the Patent to the Ducheſs *concerns not* him, for it is granted in *March*, and his 21 *April* following; but if the Times be obſerved, it will anſwer it ſelf, for the 10*th* of *March*, 7 *Car.* the Rates are raiſed, 21 of *March* my Lord of *Carliſles* Patent is ſurrendred, 24 *March*, the Dutcheſs Patent dated, 21 *April* 8 *Car.* ſome 30 days after

after my Lord of *Strafford*'s Leaſe is paſſed. If this had been intended for the Dutcheſs, ſhe would have kept it, but ſhe keeps it not to pay a days Rent, or receive any profit. *Article* 10.

But this will intrench on my L. of *Strafford*'s Anſwer, on the ingenuity of which he ſtands ſo much, for he ſays, There were Propoſitions to raiſe theſe Rates, and he was acquainted and intreated to go on, and thereupon he enters into the Bargain: We deſire Your Lordſhips to mark the time, that if there were theſe Propoſitions to raiſe the Rates, and this Leaſe muſt be drawn on the raiſing of the Rates; then was he interreſſed in the raiſing of the Rates, before he was interreſſed in the Leaſe. And then there is the execution of a deſign carried in ſeveral hands, which tend to one purpoſe, for he enters into it the ſeventh year, and his own Leaſe is the eighth; and therefore it was on his own Deſign and Counſel, and for his own Profit.

My Lord inſtanceth, That the Article lays the Book of Rates to be raiſed 9. whereas this was done 7. Mr. *Maynard* obſerved, Time is not material; had they charged him to have made a Book of Rates ſuch a Date, it had been ſomething. But if an Offence be laid in one year, and it appears to be done in another year, he muſt be puniſhed for that now which he did at any time.

To the Tunnage and Poundage, being the Inheritance of the King, it is ſo in *Ireland*; but the Point is the Oppreſſion of the Subject, when he makes that three which is but one; and ſo inſtead of giving the King his due, to extort from the Subject what he ought not to pay.

If he ſays, Proofs could not be had to prove a greater value of the Commodities, he had time to produce a Witneſs out of all *Ireland*. The Commons have produced them that ſpeak of the higheſt value, and there is great difference between three, four, five, the higheſt is ſix, and twenty.

What occaſioned *Williams* to Relinquiſh the Bargain is not material: But in what Caſe is the Subject of *Ireland*, that when a Bargain is to be ſet at the higheſt, he that is to be their Governor and Judge, to whom all Appeals muſt be made, ſhall enter and put in his Authority to make a Bargain that none elſe would take. The Subject is like to have good Juſtice, when the Judge muſt loſe by the Judgment he gives in the Cauſe; when the Deputy of *Ireland* muſt be both Judge and Party.

It is ſaid *Williams* firſt entertained it, and left it; but though my Lord be not the firſt that projected it, he is the Man that firſt put it in Execution, the firſt that took it under the Great Seal, and firſt brought it to be a Grievance to the Subject, and that he is Charged withall. It might be fit for *Goldſmiths*, and ſuch to proſecute it, but not for them that are imployed in Adminiſtration of Juſtice, and in great Deſigns to follow ſuch a Deſign.

But when Profit comes roundly in, Sir *Arthur Ingram* muſt be put out, and for 11 years have half a years value.

Mr. *Maynard* added, That my Lord of *Strafford*, in his Anſwer, gives it as a Juſtification of himſelf, that he did not hold it fit to take ſuch a Bargain from the King, wherein there was not 1000 *l.* to be got.

But though he thought it not fit to take, when he could get but 1000 *l.* yet he held it fit to take ſuch a Bargain from the King, where, in holding it eight years, he gets 30000 *l.* he thruſts out Sir *Arthur*, and why not himſelf, and there is no wonder, that he that gained ſo much, would ſeem to Intereſt His Majeſty in part, that his ſhare might remain more

Article 10.

more intire; ſurely it was the more injuſtice in him to retain the Bargain, when he had ſtept into it.

For the Letter of *July*, 1637. there was a Propoſition, ſhewing His Majeſty's Care for His Subjects in *Ireland* what to inhance, no, to inhance if there were Cauſe. My Lord pretends he was loath to make an Inhancement, but that was the Opinion of the Board: It is to be wondred that he took them not down rather.

And ſo he concluded, That they had proved the Charge; that he hath procured the Cuſtoms to be advanced, they were not advanced till he entred. And their Lordſhips were deſired not to let one thing paſs without Obſervation. That from 7 *Car.* to this time ſuch gain hath been made, that there is come to his purſe and his Partners 300000 *l.* if the Depoſitions be to be credited, and it muſt be four more, if the ſucceeding years hold proportion. That here is not only an Inhancement of Rates on the Subject, by way of Extortion, but this is ſoaked out of the King's Purſe. That is the 1400 *l.* a year Rent for the Wines, the Surpluſage of the Wines, the Defaulcation of *Colerone*, *London-Derry*, *Knockfergus*, and *Strangford*. And beſides their Lordſhips may obſerve the Clauſe in the Patent; the Grant muſt be good, though there be an Act of Parliament againſt it, and the King muſt pay for His own Prize Goods, which is left unto their Lordſhips Judgments.

The Committee did now declare, That for the preſent they would lay aſide the Eleventh Article, and proceed to the Twelfth.

The

THE Twelfth Article.

The Charge.

Article 12.

That the ſaid Earl, being Lord Deputy of Ireland, on the 9th day of January, in the Thirteenth Year of his now Majeſties Reign, did then under colour to regulate the Importation of Tobacco into the ſaid Realm of Ireland, iſſue a Proclamation in His Majeſties Name, prohibiting the Importation of Tobacco, without Licence of Him and the Council there, from and after the Firſt day of May, Anno Dom. 1638. after which Reſtraint, the ſaid Earl, notwithſtanding the ſaid Reſtraint, cauſed divers great quantities of Tobacco to be Imported to his own uſe, and fraughted divers Ships with Tobacco, which he Imported to his own uſe: and that if any Ship brought Tobacco into any Port there, the ſaid Earl, and his Agents, uſed to buy the ſame to his own uſe, at their own price; and if that the Owners refuſed to let him have the ſame at under values, then they were not permitted to vent the ſame there; by which undue means, the ſaid Earl having gotten the whole Trade of Tobacco into his own hands, he ſold it at great and exceſſive prizes, ſuch as he liſt to Impoſe for his own profit.

And the more to aſſure the ſaid Monopoly of Tobacco, he the ſaid Earl on the Three and twentieth day of February, in the Thirteenth Year aforeſaid, did iſſue another Proclamation, commanding that none ſhould put to ſale any Tobacco by Whole-ſale, from and after the laſt day of May, then next following, but what ſhould be made up into Rolls, and the ſame ſealed with two Seals by himſelf appointed, one at each end of the Roll. And ſuch as was not ſealed, to be ſeized, appointing ſix pence the pound for a Reward to ſuch perſons as ſhould ſeize the ſame: and the perſons in whoſe cuſtody the unſealed Tobacco ſhould be found, to be committed to Goal; which laſt Proclamation was coloured by a pretence for the reſtraining of the ſale of unwholeſome Tobacco, but it was truly to advance the ſaid Monopoly.

Which Proclamation the ſaid Earl did rigorouſly put in execution, by ſeizing the Goods, Fining, Impriſoning, Whipping, and putting the Offenders againſt the ſame Proclamation on the Pillory; as namely, Barnaby Hubbard, Edward Cavena, John Tumen, and divers others; and made the Officers of State, and Juſtices of Peace, and other Officers to ſerve him in the compaſſing and executing theſe unjuſt and undue Courſes; by which Cruelties, and unjuſt Monopolies the ſaid Earl raiſed 100000 l. per Annum Gain to himſelf. And yet the ſaid Earl, though he enhaunced the Cuſtoms, where it concerned the Merchants in general, yet drew down the Impoſt formerly taken on Tobacco from Six Pence the Pound to Three Pence the Pound, it being for his own Profit ſo to do.

Article 12. **And the ſaid Earl, by the ſame, and other Rigorous and Undue Meanes, raiſed ſeveral other Monopolies, and Unlawful Exactions for his own Gain,** viz. on Starch, Iron-pots, Glaſſes, Tobacco-pipes, **and ſeveral other Commodities.**

Mr. Maynard *did begin to open the* 12*th* Article, *which was Read.*

Mr. *Maynard.* THat he did impoſt *Tobacco* himſelf, and reſtrianed others: forced the *Subjects* to ſell their *Commodity* at Low and and Under-values, becauſe they could not import it without his *Licence*; and when himſelf had Bought it at Low Rates, he Sold it at Exceſſive great Rates; ſo that he hath made near 100000 *l.* Profit by his *Monopoly*.

That when his *Proclamation* is made, and Oppreſſion put upon the People, he doth the 23d of *Feb.* 13 *Car.* Ordain, That none ſhall Sell *Tobacco* within the Kingdom, but ſuch as was *Sealed* by his Appointment; and, they that Sold otherwiſe, their Goods ſhould be Sold.

That, by occaſion hereof, the King's Subjects have been grievouſly puniſh'd by *Fining*, *Impriſoning*, *Pilloring*, *Whipping*, and the like.

To prove the Reſtraint, the *Proclamation* on the *9th* of *January*, the *13th Car.* was firſt Read.

By *the Lord-Deputy and Council.*

A *PROCLAMATION* concerning the Importing of *TOBACCO.*

By which *Proclamation*, is ſet forth in Subſtance as followeth.

Proclamation. *THat whereas unſound* Tobacco *is brought in*, &c. *by the Unlimited Liberty of divers to Import*, &c. *and being no Uſual Commodity*, &c. *a ſtrict Charge is given, that none preſume from the Firſt of* May *next, to Import any* Tobacco *without Special Licence from Us, on pain of incurring His Majeſty's high diſpleaſure, and the Puniſhments due for ſuch Contempts.*

The *Proclamation* concerning Sealing of *Tobacco* was next Read, the 23d of *Feb.* 13 *Car.*

By the *Deputy* and *Council.*

Wherein,

Proclamation. THe former *Proclamation* is Recited: *And to prevent Secret Ways of Importation, a Charge is given from the laſt of* May *next, no* Tobacco *be put to Whole-ſale, unleſs it be in compleat Rolls, which may be convenient*

ly

ly ſeal'd, and to be Sold with two Seals, one to be affixed at each end, which Seal order is taken to be provided for that purpoſe. That what Tobacco *ſhall be found without thoſe Seals, the King's Officers may ſearch for, and ſeize, and convey to the next Port, which Courſe ſhall be taken, that every Seizor ſhall have* 6d *for every Pound, as an Encouragement; and that the Officers ſhall commit the Perſons of ſuch in whoſe hands ſuch* Tobacco *ſhall be found, till Security ſhall be given to appear before the Deputy and Council, and not to depart without Leave,* &c. *Article* 12.

Mr. *Maynard* obſerved, That *John Carpenter, &c.* who are imployed in this buſineſs, are all Servant to my Lord of *Strafford*, but *Little*, who is Sir *George Ratcliff*'s Servant, who did accordingly make Seizure, Mr. *Maynard.*

And he further obſerved, That my Lord of *Strafford* had ſeveral Magazines of *Tobacco*, and that, from time to time brought in, was beſtowed there. And, on the Firſt Day of his Defence, my Lord of *Strafford* ſaid, 40000 *l.* of his *Tobacco* was Seized.

To Prove the *Execution* of theſe *Proclamations.*

Timothy Crosby Sworn, and Asked, Whether Ships have not been Prohibited to Land their *Tobacco?* Mr. *Crosby* a Witneſs.

He *Anſwered*, Yes: Since the 11*th* of *November*, 1637. and he Inſtanced in Governour *Briskett* of *Montſerratt*, Mr. *Arundel.*

Being Asked, if any Ship Periſh'd upon the Reſtraint?

He *Anſwer'd*, That *John* of *Kingſale*: It came into *Lymerick*, and being not there ſuffered to Sell, was forced to *Galloway*, and was caſt away going into another Harbour: And this, becauſe She was not one of the *Magazine.*

Being Asked, What Rates the Merchants ſold their *Tobacco* for before this Reſtraint, and what ſince?

He *Anſwered*, Before the *Reſtraint*, for 6 d, or 7 d the Pound: and other times for 14d, and 16d on ſhipboard; and ſince, ſome at 9d, a Pound, and others at 6d *Ob.*

Being Asked, Why the Ships were not permitted to Land?

He *Anſwered*, Becauſe they would not pay 2 *Shilling* a Pound, 18d Cuſtom, and 6d Impoſt.

Whence Mr. *Maynard* Obſerved; That if they came for the uſe of my Lord of *Strafford*, and his Party, they muſt pay 3d; if for others, 18d, and Impoſt. Mr. *Maynard.*

Patrick Allen Sworn: Being Asked to the matter of *Reſtraint.* Mr. *Allen* Witneſs.

He *Anſwered*, That a Ship of 80 Tun was not admitted to Land at

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Yoghall, but forced to carry her Lading of *Tobacco* to St. *Mallis* in *France*, where he believes it is.

That a *Proclamation* was out in 1638, That no Merchant ſhould Land any *Tobacco* without ſpecial Licence of the *Patentees*.

That before the *Proclamation* he bought *Tobacco* for 6d and 7d, a Pound, a great Qnantity, of one of *Dartmouth*: and ſince they pay 2 *Shillings*, 7 *Groats* 8 *Groats*, and 3 *Shillings*. That the *Patentees* pay the Merchant 6d or 7d a Pound, which is the moſt he hath heard of.

Mr. *Welſh*, a Witneſs

John Welſh Sworn, and Interrogated to the ſame matter.

Anſwered;

It was not granted, they ſold as much as would pay for their Proviſions, for which they had 6d a Pound; but would not give way to Land any more of it.

That one *Arundell* of *Exceſter* put into *Waterford*, and he the *Deponent* was in Company with him to *Dublin*; and deſired, that if the ſaid *Arundell* could get off his *Tobacco*, he would ſell it him the *Deponent*, who would give him 2 *Shillings* a Pound for it: That he could not get it off, and ſold it to *Joſeph Carpenter* for 6d a Pound. That he paid for ſome Landed at *Waterford* by one *Wells*, 16d a Pound ready Money. That the *Patentees* do uſually buy at 6d, Only there was a Bargain made with one *Arundell*, to take it at 8d, or 9d; but, how far they went he knows not. That one *White* of *Waterford* put into *Lymerick*, and told him the *Deponent*, That he got but 4d a Pound for his *Tobacco*.

Being Asked, What Quantities he conceives is brought in Annually?

He *Anſwered*, That he hath Eſtimated it with advice of others, that *Ireland* cannot conſume leſs then 500 Tun a year; Others ſay, It doth far exceed: and 500 Tun is near 140000 *l.* at 2 *s.* 6d a Pound.

Being Asked, Whether he knew any Sentenced on theſe Pretences?

He *Anſwered*, He ſaw *Patrick Wells*, Merchant, of *Waterford*, ſtand on the Pillory for having Unſealed *Tobacco*, and expoſing it to Sale. *Richard Whitwick* for the like offence Pillory'd at *Waterford*. That he hath heard of divers others. And, he thinks the Book of *Cenſures* is here under the hand of the Farmers Sollicitor and ſent to the *Committee* out of *Ireland* by a Meſſenger Expreſs.

Mr. *Gough*, a Witneſs.

Patrick Gough being required to Anſwer truly, Whether the Book produced, containing an *Abſtract of the Sentences made in the Caſtle-Chamber*, was delivered him by the *Committee* in *Ireland*?

He *Anſwers*, That he believes it was among other things deliverd him by the *Houſe of Commons*, to be brought to the *Committee*, Sealed up in a Box.

But

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But the Committee not thinking fit to offer the Book in Evidence.

Patrick Gough was examined, Whether he heard of any Sentenced in the *Proclamations* for Tobacco? *Patrick Gough a Witneſs.*

He Anſwered, He knew divers, and there were three or foreſcore from time to time attending in the Council-Chamber, committed to the *Mraſhalſey*, and proſecuted by *Hunt*; and theſe were, (as he remembers) in *Eaſter* Term laſt. And *Michaelmas* Term before, and every year for three years paſt: That he hath heard of 60 at a time committed, and they were ſentenced for having Tobacco unſealed.

Being asked on my Lord of *Strafford*'s motion, Whether my Lord of *Strafford* was a party to them? E. of *Strafford.*

He Anſwered, That as he remembers, in *Michaelmas* Term laſt was 12 months, there were three *Waterford* men ſentenced whereof one was for 9 *l.* of Tobacco,

One of them Fined 100 *l.* and loſs of his Office, being Waiter. The other 100 *l.* and the Merchant 100 *l.* and both committed, and their Fines reduced after to 20 *l.* That they were fined before the Council, at the Council-Table; and as he remembred, my Lord of *Strafford* was then there.

Mr. *Maynard* did then produce a Sentence, under my Lord of *Strafford*'s hand (as he himſelf conceived it to be) wherein divers perſons were ſentenced. Mr. *Maynard.*

Mr. *Glyn* deſired a proof concerning the value, for which a witneſs ſhould have attended, but is withdrawn; but the Remonſtrance of *Ireland* ſpeaks particularly to it. Mr. *Glyn.*

That the value of it exceeds all the King's certain and uncertain Revenue in the Kingdom of *Ireland.*

Mr. *Plunkett* Being Sworn, being examined touching the truth of the Copy. *Anſwered*, That he had the Copy from the Clerk himſelf being a Member of the Houſe. That he hath looked on the Article of Tobacco, and as it is in ſubſtance with that which was voted. Mr. *Plunkett* Witneſs.

My Lord of *Strafford* deſired he might be asked what proofs were there offered E. of *Strafford.*

But Mr. *Glyn* oppoſed that hoping, there was no queſtion to be made of the proof of a thing that was done by all the Commons of *Ireland* to whom perhaps; their own knowledge is the proof. Mr. *Glyn.*

The Remonſtrance read as to the *6th* Article.

That the Tobacco bought at low rate, is ſold at exceſſive rates, whereby thouſands of His Majeſty's Subjects are deſtroyed, and moſt part of the Coine of this Kingdom ingroſe into particular hands; inſomuch, that the profits ariſing thereby, ſurmount His Majeſty's

Article 12. Majeſty's Reveune, certain or caſual within this Kingdom, and yet His Majeſty receives very little Profit by the ſame.

Mr. *Crosby.* *Timothy Crosby* being interrogated, How much Tobacco comes into the Port of *Kingſale* for three years laſt paſt.

He anſwered, 60 Tunn in three years.

Mr. *Maynard.* Whence Mr. *Maynard* obſerved, if one Port brings in 200 Tunn, the reſt will go to a great height.

Being queſtioned what the Patentees give, and what they require for ſuch as is refuſe Tobacco upon the ſorting of it.

He anſwered, That for the refuſe, the Owners had not above 1*d.* and the Patentees ſold none of that under 2 *s.*

Mr. *Maynard.* And ſo Mr. *Maynard* cloſed this Article, obſerving that they have proved the Reſtraint and the Execution of it. That it is turned intn a *Monopoly*; That none muſt be imported without their Licence; That they buy what is brought in at low rates, at 6d a Pound, when others will give 2 *s.* That 4 *s.* 8d or 9d is the higheſt they give, ſo that they ſell for three or four times the value of what they pay: That by an eſtimate, 500 Tunn is imported: That Puniſhments are inflicted; The King's free Subjects Whip'd Pilloryed, Fined; And ſo My Lord of *Strafford*'s Anſwer was expected.

After a little Reſpit his Lordſhip made his defence to this Article, in Subſtance as followeth.

That he conceives he hath very little crime to anſwer, as to this Charge, eſpecially as unto Treaſon.

That he wiſheth with all his heart he had ſo much profit to anſwer for, as is pretended that he gained by this buſineſs.

His Lordſhip preſented in the firſt place a Petition preſented by the Commons Houſe of Parliament in *Ireland*; in the Parliament preceeding this, wherein he deſired, that this Leaſe of the impoſt of Tobacco might be taken in, and compounded for, and converted to the King's benefit: That the Revenue might be able to bear the Charge, and the Subjects eaſed from demand of Contribution, and ſupply for this purpoſe; ſo that this was originally ordained by themſelves, on their own Petition, to be ſetled as a Revenue of the Crown.

Mr. *Gibſon.* The Petition being affirmed by Mr. *Gibſon*, to be a true Copy, being examined by him before Sir *Paul Davis* in *Ireland*, was read as to that point, and it imports.

Laſtly, They do humbly adviſe, that the ſix Subſidies, chearfully granted in this Parliament, may be imployed for the buying of the Leaſes and Farms, that the ſame may be able to ſupply the neceſſary charge of this Kingdom in the firſt place. And in the ſecond place, to ſatisfie and diſcharge the Debts and Incumbrances aforeſaid, as in manner aforeſaid, and for the other not included. The Houſe would not enter into Conſideration thereof, but are confident, that when others juſtly due, ſhall appear

pear, your Lordſhips will take a courſe that ſhall ſtand with your Honour and Profit. *Article* 12.

My Lord of *Strafford* offered a Witneſs to prove, that the Tobacco is one of the things that goes under the name of Leaſes.

Mr. *Slingsby* being examined to that point.

Anſwered, That he was a Member of the Houſe of Commons the firſt Parliament, and Debate was offered, how the King's Revenue might be ſupplyed to maintain, the Charge; ſeveral Grants and Leaſes applyed to particular men, were thought fit to be brought in, to be applyed to the King's advantage there; there was the Cuſtom, Wine, and Aquavitæ, Licenſes; there was Tobacco, and in the Kingdom. Mr. *Slingsby.*

My Lord of *Strafford* deſired liberty to reſerve Sir *Adam Loftus*, whom he conceived a material Witneſs for him, but was now abſent. E. of *Strafford.*

Lord *Robert Dillon* being asked whether he was of the Parliament Houſe when theſe Leaſes were adviſed to be brought in, and whether the Leaſe of Tobacco was not one that was adviſed to be brought in, and applyed to the Crown; and that part of the Subſidies ſhould be imployed to that end. His Lordſhip anſwered, That he did ſerve in the Houſe of Commons that Parliament, that they were upon the King's Revenue, and they wiſhed that the Charge might be anſwered by the coming in of the Rents. He remembers, that on debate in the Houſe, a Committe was appointed to conſider of the diſpoſing of part of the King's Revenue, to take off the Incumbrances then of His Majeſties Revenue, to the end, the Rent of His Majeſty being raiſed, they might be able to anſwer the ordinary and ſtanding charge of the Kingdom, and ſo divers things were to be brought in; but for the very particular Tobacco, he doth not remember it by name though he remembers Wine and Aquavitæ, and the Incumbrances on the Cuſtoms. Lord *Robert. Dillon*

My Lord of *Strafford* in the ſecond place, ſhews the Grant of the Impoſition on Tobacco, as they were Lett *June* 13 *Jac.* and at that time were Lett for 10 *l.* a year Rent. E. of *Strafford.*

Which being atteſted by Mr. *Gibſon* to be a true Copy, and to be by him examined at the Rolls in *Ireland*, was read, as to this point purporting, Mr. *Gibſon.*

That the King appoints, That from the Date thereof, there ſhall be received by way of Impoſition mony 18*d.* currant, upon ever pound of Tobacco, which is demiſed to *William Maſſam* and *John Pitt* for 7 years, under the yearly Rent of 10 *l.* Dat 6 *June*, 13 *Jac.*

Next he offered a Leaſe of the ſaid Impoſitions to Mr. *Lyne* for 21 years at 20 *l. per ann.* Dat. 8 *Feb.* 19 *Jac.*

But Mr *Maynard* admitted it, the reading thereof was forborn. Mr. *Maynard.*

Next, He offers the King's Letter 18 *July*, 12 *Car.* whereby His Majeſty directs the ſetling of this buſineſs, and is a warrant for iſſuing of the Proclamation wherewith he is charged.

Which

Article 12.

Mr. *Gibſon.*

Which being affirmed by Mr. *Gibſon* to be a true Copy, was read, whereby is imported.

That His Majeſty being given to underſtand, that the pre-emption of Tobacco may be rightly aſſumed, had reſolved to lay hold of the preſent opportunity, requiring my Lord of *Strafford* to adviſe with ſuch of the Council there, as he ſhould think fit, or by what Limitations and Conditions the pre-emption may be ſetled; and afterwards, to direct a courſe for licencing the ſale thereof, to the beſt improvement.

Yet ſo as a care may be had as near as may be, to prevent the bringing in of unſound Tobacco, leaving to his judgment, all neceſſary proviſions to be determined about this buſineſs, Dat. 18 *July* 12 *Car.*

My Lord of *Strafford* obſerved, that this Letter was ſent upon the like courſe taken here in *England*, it being thought fit to be alike in both Kingdoms; but the buſineſs of *England* preceeded it, and was the occaſion of the Letter.

The next thing obſerved was the Proclamation in *England*, to prohibit the planting of Tobacco in *England* and *Wales*, and the landing of Tobacco in any part of *England* or *Ireland*, but only at *London*, other than ſuch, and ſo much Spaniſh Tobacco, and Plantation Tobacco, as ſhould be allowed and determined to be competent, upon pain of Confiſcation: A Moyety to the King, a Moyety to the Diſcoverer.

Which was read, being dated 14 *Mar.* 13 *Car.*

Which my Lord of *Strafford* obſerved to be the ſame with that wherewith himſelf is charged; and that the Letter directing him to take this buſineſs into Conſideration, bears date *July* 12 *Car.* and the firſt Proclamation iſſued out *ult. Jan.* 13 *Car.* So that he made no haſte.

The next thing his Lordſhip offered, was the Contract it ſelf, Dat. 7 *Nov.* 13 *Car.* which being affirmed by Mr. *Gibſon*, to be a true Copy, was read, being Signed by the Deputy and Council, and Imports.

The *Carpenter*, *Bartholomew Peatly* and others had made an humble Propoſition, thereby ſetting forth, That no Order hath been taken for the due bringing in of good and ſufficient Tobacco, or quantities proportionable to the Conſumption thereof, whereby the price is too much inhaunced, or the Market glutted, and deſiring that they may have the Renting of the Tobacco buſineſs for 11 years, paying yearly 5000 *l.* for the firſt five years, 10000 *l.* for the ſix laſt years freed from Cuſtom, and only paying 3 *d.* impoſt, and the Cuſtom not to be advanced; that, they, and ſuch as they ſhall contract with, may be free to return, and enter in *London* or *Ireland*: That in caſe of War, they may account only for the Profits, in lieu of the Rent.

That upon my Lord of *Strafford's* leaving the Government, they may be free to ſurrender their Grant, and not ſtand charged.

That Tobacco may be ſolely imported, and the Sale licenſed by them.

That no Tobacco be planted in *Ireland*, during the Term.

Whereupon, a Warrant was iſſued for the paying of a Grant to them of the ſole Importation, and Licenſing the ſale of Tobacco for 11 years, paying 5000 *l.* yearly for the five years, 10000 *l.* for the laſt ſix years, above the Cuſtom of 3 *d. per* pound, with all the Cuſtomes received for His Majeſty ſince *Michaelmas* laſt, and all Impoſitions to be laid down during that term, *&c.* Dat. 7 *Nov.* 1637.

And

Article 12.

And ſuch ſecurity to be given for the Rents, as to the Court of *Exchequer* ſhould be thought meet.

Where my Lord of *Strafford* obſerved, that he did nothing herein, without the aſſiſtance of the Principal of the Council there.

And further, That before this was reſolved, advertiſement was ſent His Majeſty, that His direction might be given, and the Letter from the Council of *Ireland*, to Secretary *Cook*, being affirmed by Mr. *Gibſon*, to be a true Copy, was read, importing the ſubſtance of the ſaid Treaty, and the Conditions thereof recited, *Dat. ult. May* 1638.

The next thing offered is the Grant it ſelf, *Dat.* 22 *June*, 14 *Car.* And an Act of Parliament for the confirmation of it, according to the Petition and the King's Letter.

The Clerk of the Crown did now inform their Lordſhips, That there is a Bill concerning Importation of Tobacco, tranſmitted out of *Ireland* in *July* laſt, and it was ſent back at *Michaelmas* laſt, with a Commiſſion to the Lieutenant, to give Royal Aſſent, but whether it was given or no, he cannot tell.

But my Lord of *Strafford*, ſaid, It was only tranſmitted from the Deputy and Council, and ſent back under the Great Seal, but did not paſs the Parliament there; and deſired it might be read only as to the Title: But that was laid aſide.

And then his Lordſhip added, That as for the *Proclamation*, he with the reſt of the Council did ſet his Hand thereunto; and that he conceived then, and truſts it will appear now to be upon very good Warrant, and juſtifiable; he having the King's Command in the point, and it being only Temporary, till an Act of Parliament might make final in it, that it might remain in the Crown for after-times, and a *Proclamation* thus iſſued till an Act of Parliament comes, he conceives very Juſtifiable; if it be an Error, it is an Error he hath been always miſguided by. That the King may make a *Proclamation* till a Parliament comes to make it more laſting.

And whereas ſome Tranſgreſſors againſt theſe Proclamations, are Sentenced, yet he is charged with none of them, and ſo on the matter is not charged with their Sentence; though he conceives the ſame very juſtifiable, there appearing to be Perjury in ſome of them; and if they be poor, and Men of no great fortunes, he knows not what is more proper or deſerved, than to ſee Men taken in ſo foul a Crime, on the Pillory, as being a fair and moderate puniſhment; and the Fines were *in Terrorem*, there being litle or nothing of them paid. And this point of Juriſdiction for puniſhing Tranſgreſſors of Acts of State and Proclamations, he conceives fully proved before in the former Articles.

And whereas 'tis ſaid, the *Tobacco* was not ſold at reaſonable Rates as formerly, he deſired their Lordſhips to obſerve, that the Contract was made 22 *June*, 14 *Car.* and in *September* was Twelve months, he was not privy to it.

And on this the Contractors ſtand on their Juſtification, and hope to make it appear, if they may have time, that the Planters have in no part of Chriſtendom, ſo good a value as here, and that they ſell at as moderate Rates, as ever was ſold heretofore, and better conditioned Commodity.

Article 12.

His Lordſhip further obſerved, That the proof which makes the great Cry in point of value, is weak enough.

That there ſhould be near 100000 *l.* profit a year, is a wonderfull eſtimate, and admirable to him. That during his being there, which was one year, it ſhall appear they were looſers by it; which he ſpeaks confidently, thinking thoſe intruſted with it, would not abuſe him; they having proteſted, the Country was ſo abuſed, that they could get very little by their Office.

That how it is ſince he knows not, for the Contractors, one of them is laid up in priſon, and the Tobacco ſeized on, under pretence that he is impeached of Treaſon; But they profeſs (and he believeth them) That when Sir *George Ratcliffe* came out of *Ireland*, they had received in Money 80000 *l.* and they had layed forth in Rent, buying Tobacco, Stock, and Charges, 86000 *l.* ſo that they had not in their Money by 6000 *l.* And Sir *George Ratcliffe* (who is now in Town, and though his misfortunes are heavy and ſad enough, yet is known to be a Perſon of Honeſty and Worth) he dares ſay, will take his Oath on it, and they that know him, know he would not take a falſe Oath to gain all the world; That there be indeed ſome debts which are not gathered, and ſome collected, and paid into the *Exchequer*: And this he ſaid, is to the value of the Bargain; and where he hears the Gentleman ſay, The Cuſtoms have been worth to him and his Partners 300000 *l.* Surely the Informations have been much miſtaken from them that gave the notice out of *Ireland*; for it is to be underſtood, that whatſoever the Profits are, the King's Rent muſt be taken out, which is 15500 *l.* of the reſt the King hath $\frac{3}{4}$ parts, and himſelf but $\frac{1}{4}$ part; ſo that on the matter, he thinks they have been worth to him, 4 or 5 or 6000 *l.* a year better than the Rent, though the value is not conſiderable in his Charge againſt him of Treaſon.

That their Lordſhips might ſee the Reaſons why he could not prepare a particular Account of theſe things, His Majeſty had had a particular Account, had not the Miniſters been ſo dealt withal, laid in priſon, and abuſed; If you will ſpeak of a tyrannical an arbitrary way of Government (The Commons expreſſing ſome diſtaſte at this Egreſſion; my Lord of *Strafford* ſaith he complains of *Ireland*, not of things here) and deſires leave to read two Orders of the Commons Houſe, who have ſeized on all, given order for ſale of them, taken the Contractors, imployed and impriſoned them, and he thereby rendred altogether unable to clear things, as otherwiſe he might have done; and theſe things they do, he knows not how, but to his undoing indeed.

Mr. *Maynard* did here interpoſe and deſire to know, to what purpoſe he would have them read; and whereas he ſpeaks of a Tyrannical uſage, he deſires to know whom he preſſes, whether the Houſe of Commons there or here.

And Mr. *Whitlock* added, That my Lord of *Strafford* in his Defence of the laſt Article, let fall ſome things that were an Aſperſion on the whole State of *Ireland*, the Lords and Commons there Aſſembled; for he ſaid, Their Lordſhips might perceive the truth of the Remonſtrance, preſented from thence on a former occaſion, and now he ſpeaks of a Tyrannical Government, on his making of Orders, which himſelf mentions to be made by the Houſe of Commons in *Ireland*. And therefore their Lordſhips were deſired to vindicate the Honour of the Kingdom of *Ireland*, which ſuffers by thoſe Aſperſions.

Sir *John Clotworthy* further inſiſted on it, That their Lordſhips are witneſſes of the many Commendations my Lord of *Strafford* hath formerly iſſued, concerning the people of *Ireland*, as long as they were ſubſervient to

his

his Courſes, and could not find a way to extricate themſelves from his Lordſhips yoke, they were cryed up, to be numbred amongſt the beſt of His Majeſty's Subjects. Now when they are ſeeking to vindicate and relieve themſelves from the heavy yoke, they muſt be called a People, he knows not how bad, and therefore beſeeches their Lordſhips that they may be ſet right in their Lordſhips Opinions. *Article* 12.

The reading of the Order being oppoſed by the Committee, as tending nothing to the Cauſe; Mr. *Maynard* alleadging that my Lord would have them ready to give their Lordſhips ſatisfaction, why they ſhould not be read, for he imports, they be tyrannical, and ſomething he would deduce out of them, to the aſperſion of others.

Whence my Lord of *Strafford* added only on the Execution of them; And Mr. *Maynard* replyed, Prove them on the Execution, they were at laſt permitted to be read.

One dated 27 *Feb.* 1640. importing,

THat whereas great ſums of Money have been raiſed by Cuſtoms, above the Rent, and my Lord of *Strafford*, and Sir *George Ratcliffe* are impeached of High Treaſon, therefore it is Ordered, That all Perſons that have Money of His Majeſty's in their hands, concerning the *Monopolies*, ſhall forthwith bring the ſame into his Highneſs Receipt; and the Commiſſioners appointed to overſee the Ports, ſhall bring in their Letters Patents to be conſidered of; and becauſe the Cuſtoms of *Dublin* amount to ⅓ of *Ireland*, and the now Collector is not reſponſible for his great Charge; if he ſhould miſcarry; therefore Sir *Edw. Bagſhaw* Kt. now Cuſtomer and Collector, ſhall collect all the Cuſtoms, and pay the ſame into the Receipt. That the Magazine-keeper of Tobacco ſhall forthwith return a true Liſt of all Tobacco remaining in his hands, and what was ſold ſince *Michaelmaſs* 1637. and to what account, and what Moneys are received, and to whom the ſame is paid, and what Money, Bonds, Bills, and other Debts remain unpaid of the Premiſſes, and in whoſe hands they be; And that all Cuſtomers, and Officers in the Ports and Creeks, do deliver into this Houſe within two months, a true Liſt of all ſuch ſeizures of Money, Tobacco, and other Commodities, that they, or any of them have made or compounded for, or what remains in their hands; and likewiſe all forfeited Bonds for Goods tranſported into *England*, *&c.* and of all Fees they have received, and their Warrants, and a Note of all ſuch Perſons as receive Fees, and are no Officers, and what Fees, *&c.* for ſeven years laſt paſt.

The Second Order was dated 3 *Mar.* 1640. importing in effect, That,

FOraſmuch as much Tobacco lies in the Magazines, which is periſhed, It is Ordered, That certain Perſons in the Order named, ſhall make ſale thereof to the beſt advantage; and the Contractors are required to make weekly Accounts of all the Moneys they ſhall receive, or which ſhall accrue out of the Tobacco by them ſold, and deliver the Money to certain Perſons therein named, or any two of them, who are required to take the burden on them, and receive the Account weekly due, *&c.* and to be anſwerable to His Majeſty, *&c.*

Article 12.

My Lord of *Strafford* obſerved, that theſe he ſhewed, to juſtifie, that he could not give particular ſatisfaction, thoſe imployed being in priſon.

And further, that in the whole proceeding of this, he had done nothing but what's warrantable, and howſoever it proves a good or a bad Bargain, that's not in queſtion; for he never knew the goodneſs of a Bargain could make a Treaſon: If every one that makes a bad Bargain with the King, ſhould be a Traitor, it were hard, but at that time none would be a Partner with them, among them all that ſay, it was ſo great a Bargain.

That in fine, the worſt of this can but be, that it is a *Monopoly*, a ſole buying and ſelling of *Tobacco*; and he hath known in his little poor experience many *Monopolies* overthrown by Sentence of the Commons Houſe; but under favour, never heard it to be judged Treaſon before this time.

For the Port of *Kingſale*, it is a Port wherein in a manner, all the *Tobacco* of the Kingdom comes to be Landed, and thence tranſported again; and that the value of the *Tobacco* is worth 100000 *l.* is but an eſtimate, and no Conſideration herein had of the price, the Cuſtoms, the Loſſes and Charges, and the Remonſtrance of the Commons, is only that they conceive it to be ſo; And this is all the Teſtimony to the value.

And ſo his Lordſhip concluded his Defence.

And Mr. Maynard *made Reply in ſubſtance as followeth:*

And Firſt he obſerved, That whereas it was ſaid, the Orders of the Commons Houſe were Rigid, indeed Tyrannical, when they be heard, there's no ſuch thing in them; they appoint two of my Lord of *Strafford*'s Agents, at leaſt one of them is his Agent, and the other Patentee to account the Money: That they ſhall only bring in a Liſt, without taking away the Books, or any thing conducing to his defence.

That he knows not for what purpoſe my Lord of *Strafford* objected the Leaſe 10 *Jac.* for that concerned impoſition on Tobacco, but the queſtion here is, That none muſt ſell Tobacco without Licence of the Patentee.

Here my Lord of *Strafford* interpoſed, That any Man that will pay Impoſition and Cuſtom, may bring in what Tobacco he pleaſes. But Mr. *Maynard* anſwers, That that's more than the Tobacco is worth, and if the Patentees may ſell without Impoſition and Cuſtom at their own Prizes, they are 2 *s.* a pound before any Man.

Mr. *Maynard* proceeded to anſwer, That of the Commons petitioning for regulating the King's Debts, and obſerved, That it was only that the Incumbrances on the King's Revenue might be taken off; and this is no ground that the Subject muſt not have his Goods, becauſe the King's Debts muſt be regulated, nor a good Service done His Majeſty, that when the Commons ſhall deſire ſomething may be done, therefore this is an Argument, and Juſtification, that any thing may be done; this being to ſtop the iſſues of the affections of the King's People, when what they propound ſhall be ſo far beyond their Intention; beſides, ſome have been whipp'd, Pillory'd

Pillory'd, and, Was that the Intention of the Commons Houſe, to put ſuch Severity, pardon him if he ſay Cruelty, upon the Subject? *Article 12.*

That the Letter from His Majeſty was on a Miſ-information; for it ſays, His Majeſty is given to underſtand the Preemption of Tobacco may be rightfully aſſumed; yet the known Law in *England*, or *Ireland*, being, That any Preemption may be put upon a Commodity, to take it from a Subject; ſo they have the more to anſwer for it that did inform it: and, if the Queſtion be, Who? Surely out of my Lord of *Strafford*'s own Defence, he himſelf appears to be the Man; for, he makes the Propoſition of the Commons Houſe the ground of his Proceeding: So it was an Arrow out of his Quiver. Beſides, though it was to be aſſumed to His Majeſty, yet the Queſtion is, Who had the profit? the King had little in proportion to what hath been raiſed.

For the Proclamation, *March* 13 *Car.* Whereas my Lord makes that in *England* the Example of that Iſſued in *Ireland*; if that which follows may be an Example to that which goes before, it may be true: But, the Proclamation in *Ireland* was in *January*, and the Proclamation here is in *March*, the ſame year; Therefore that's a great Miſtake.

Beſides, if there be a *Monopoly* ſet up in *England*, Shall that Juſtifie another? A Crime being aggravated, when it becomes an Example; for, when they go to the other, one ſtrengthens another; and there is more Miſchief to the *Common-wealth.*

And, in Parliament, they muſt be bold to ſay, When Ill Miniſters ſhall take on them to Vouch the Sacred Names of His Majeſty to Juſtifie a *Monopoly*, His Majeſty is Innocent, but they are liable to great Puniſhment; and the more Puniſhable, becauſe they Juſtifie it under ſuch a Colour.

As to the Advertiſement of it hither by the Deputy and Counſel; Shall their Advertiſement, of what was done Unjuſtly, make it Juſt?

Beſides, my Lord of *Strafford* takes on him the Encouragement of the Contracts? for, there is one Propoſition that (in caſe we remove) they may have liberty to ſurrender their Patents, which is a ſtrong reliſh of my Lord of *Strafford*: For elſe, Why ſhould they deſire no longer to continue the Grant, then they may have his Protection to Whip, and Pillory Men? And, the truth is, he is the ſole Man that hath the benefit of it, and the reſt are his Servants; And, they will deſire Mr. *Little* may be examined to that point by and by.

He added, That his Lordſhip had a weak Defence, elſe he would not have fled to ſuch a Buckler, as an Act of Parliament, certified from Sir *Chriſtopher Wainsford* the Deputy of *Ireland*; that he thinks it fit to paſs, who was one of them that Acted at the Council-Table, ſo far as his part came; but, it was never propounded to either of the Houſes. And, where my Lord ſays, A Proclamation may be made, till an Act of Parliament make it more laſting: Mr. *Maynard* ſaid, Yet he hoped, by no Law in *England*, a Proclamation may take away the *Goods of the Subject:* That there is a Right in Proclamation he will never ſpeak againſt; but, it is no Temporary Law to raiſe a *Monopoly.*

And, whereas he ſays, Tobacco yields no where ſo good a Value as in *Ireland*, that's nothing to the Point of Buying; that when the Subject may have 2 *Sillings*, my Lord of *Strafford*'s Agents ſhall have it for 6*d.* and ſell it again for 2 or 3 *Shillings.*

My

Article 12. My Lord ſays, The Contractors are out of Purſe 6000 *l.* and 'tis but ſaid; And that will not abate the Teſtimony.

For *Kingſale*, the Witneſs being an underſtanding Man, ſays, That in that one Port there comes in 200 Tun; and whereas it is ſaid, There comes none, in a manner, in any other Port, Why then hath my Lord Five Magazines of Tobacco at ſeveral places? Nothing is offered by way of Defence: And he that ſhall Juſtifie ſuch things by the Commands he hath produced, doth exceedingly Juſtifie our Complaint in that Point; For, were it not that by Miſ-informatiou, the Subject is left Remedileſs at Law, he might be holpen there: but when my Lord of *Strafford*, and other Great Officers there ſhall uſe the King's Name, *That's* our Trouble, therefore their *Profit*: And, therefore, though my Lord makes light of it. it will come heavy at the laſt, and is a great breach on the *Property of the Subject*, Sole-emption may be made of all things elſe.

Mr. *Glyn* deſiring to add a word, obſerved, That Two things my Lord of *Strafford* mainly inſiſts on, to Juſtifie his Actions. *Firſt*, That the Houſe of Commons deſired the Revenue might be unfettered, by taking off the Leaſes in being; And urges, That they intended the Leaſe of Tobacco among the reſt, which appears not: But admit it, their intention was to take off the Fetters and Ingagements from the King's Revenue, that the King might make the beſt of it; not that others ſhould feed on what was His, and he in the mean time want.

Now their Lordſhips may obſerve, how my Lord of *Strafford* executes theſe intentions; he gets a Leaſe of it, but doth not he retain the King's Revenue, being worth 100000 *l.* a year to himſelf for 5000 *l.* if the Witneſs ſpeaks truth? So it falls on his own head, and is a plain deceiving of the King. There is a Letter, which Anſwer is made to; but if their Lordſhips recall to Memory what the Letter was, it was as Juſt as could be, to take a courſe for Preemption of Tobacco; no, they afterwards enter into Conſultation, and Advice, what ſhould be done: And, What do they? They lay a Reſtraint that no Man ſhould Import unleſs they wonld Sell unto my Lord of *Strafford*, at his Rate, and ſo it is executed to Tyranny over the People.

There is another thing my Lord inſiſts on: Is the making of a good Bargain Treaſon? But, out of the making of this Bargain, if their Lordſhips well conſider it, They ſhall find a double Treaſon to reſult; *First*, Exerciſing an Arbitrary Power, by laying what Tax he will, for he may lay 19 *Shillings* as well as 6*d*. *Secondly*, His depriving the King of His Eſtate, under Colour of Advancing His Revenue, which is to deprive the King of His Government: For, if one takes away my means of Livelihood, and Defence againſt an Enemy, it is a killing of me round about, though it were a more immediate killing of me to run me through.

If he take away the King's Livelihood and Juſt Revenue, whereby He is enabled to Govern and Protect His People, Is it not to take away the Government out His Hand?

And one word Mr. *Glyn* deſired to add from ſomething that fell from my Lord of *Strafford*, by way of Prevention, concerning the Parliament of *Ireland*: We live under one King, and one Government, and no doubt ought to be ſenſible of one anothers Honour, the Parliament of *England*, and the Parliament of *Ireland*.

Here

Here is an *Article* againſt my Lord of *Strafford*, for endeavouring to put Him out of Opinion of Parliaments: In this Aſſembly, where the Commons and Peers are Aſſembled he hath endeavoured to blaſt a Parliament: In the next Kingdom he talks of a Tyrannical Governmentt, an Arbitrary Power: (theſe were his words in effect) Is not this as much as in his power to caſt a Blaſt and Ill Affection (in any Man that hears him) on the Parliament of *Ireland*? And he that will do it in the preſence of a Parliament, in *England*, What will he do of a Parliament of this Kingdom, in the abſence of a Parliament, and when there is no Parliament Sitting? *Article* 12.

And ſo Concluded the Twelfth Article, *and the Houſe was* ADJOURNED.

THE

THE Thirteenth Article.

The Charge.

Article 13. That Flax being one of the principal and Native Commodities of that Kingdom of Ireland, the ſaid Earl having gotten Great Quantities thereof into his Hands, and growing on his own Lands, did Iſſue out ſeveral Proclamations, viz. The one Dated the One and Thirtieth of May, in the Twelfth of His Majeſties Reign; and the other Dated the One and Thirtieth day of January, in the ſame Year; Thereby preſcribing and enjoyning the Working of Flax into Yarn and Thread, and the ordering of the ſame in ſuch wayes, wherein the Natives of that Kingdom were, unpractiſed and unskilful: which Proclamations ſo Iſſued, were, by his Commands and Warrants to His Majeſties Juſtices of Peace, and other Officers, and, by other Rigorous Meanes put in Execution; and the Flax Wrought, or ordered in other manner then as the ſaid Proclamation preſcribed, was Seized and employed to the Uſe of him and his Agents: and thereby the ſaid Earl endeavoured to gain, and did gain in effect the Sole Sale of that Native Commodity.

April. 1. 1641.

THE Thirteenth *Article* was this Day Read and Opened by Mr. *Maynard*, concerning *Flax*, one of the *Native Commodities* of the Kingdom, which my Lord of *Strafford*, by ſeveral Proclamations, enjoyned the *Natives* to work into *Yarn*, in a way wherein they were unskilful; and Prohibited the Buying of any *Yarn* of this *Flax* otherwiſe made; and upon this occaſion, much was Seized: So that by the Complaints of the Commons, it appears, that Thouſands were Undone, their Goods being taken away, and converted to my Lord's Uſe.

For *Proof.*

The Second Proclamation of *Deputy* and *Counſel* was Read; wherein the firſt is Recited, Importing in effect, That by reaſon of the multiplicity of ends in *Yarne*, there is much confuſion; That for remedy, a Proclamation

clamation Iſſued the laſt of *May* laſt, which hath taken good effect: And, in regard ſome ill-diſpoſed perſons have nevertheleſs contracted for *Yarn* at cheap and low rates, though not made according to the firſt Proclamation; That therefore the ſaid firſt Proclamation be ſtrictly obſerved, and that none preſume to buy any *Linnen-Yarn*, but ſhall be Reeled on one end, and no more, *&c.* That if any perſon ſhall, after the firſt of *April* next, offend, contrary to this Proclamation, he ſhall be proceeded againſt at the Council-Board, or Caſtle-Chamber: Some are appointed to enquire of Contempts, to whom Recompence is promiſed. *Given*, &c. 31 *Jan.* 12 *Car* 1638. *Article* 13.

The *Natives* not being able to apply themſelves to his Commands, a Warrant went to Seize the Goods, made or brought contrary to this Proclamation; ſo that People forbore the Markets, durſt not ſell none openly, and ſo could not pay their Rents.

The *Warrant* was produced under my Lord of *Strafford's* Hand and Seal, which his Lordſhip affirmed, being in effect,

By the Lord-Deputy *Wentworth.*

TO *all Juſtices of the Peace*, &c. *Whereas* Benjamin Croky *is Authorized to inform himſelf, and advertiſe the State, of Abuſes and Contempts committed and done, againſt a Proclomation made for Reformation of the abuſe of Spinſters of* Linnen Yarn, *and to ſtay all* Yarn *made contrary*, &c. *till Our pleaſure be further known: And whereas he now informes us, he cannot diſcharge that Truſt, in regard divers perſons do privily, in their own Houſes, and not in open Markets, make Sale for their* Yarn; *and though he hath deſired Aſſiſtance of Publick Magiſtrates, yet they have failed to afford him the ſame, in that meaſure that is fitting: In conſideration whereof our pleaſure is, and we do hereby require and Authorize you, to be aiding and aſſiſting to* Benjamin Croky *and his Deputy, To Seize on, and take all* Yarn *which ſhall be found to be made contrary to the ſaid Proclamation, and to cauſe diligent ſearch to be made in all Houſes*, &c. *where you ſhall be informed any ſuch Remains lie hidden, and the ſame to Seize and to bring to* Dublin, *to be diſpoſed of, as We ſhall direct the Party delivering it, taking* Croky's *hand for Receipt thereof*, &c.

To prove *Execution* of it.

Benjamin Croky Sworn; was interrogated, Whether he, by virtue hereof, hath Seized any *Yarn*, and how much? and how it was diſpoſed of? *Bejamen Croky*, Witneſs.

He Anſwered, That his Deputy did Seize *Yarn*, and it was taken from him by means of *Joſeph Carpenter* the Steward, who received the *Yarn* into his Cuſtody, and converted it into my Lord's Looms. He doth not know what quantities, but it was a great parcel; And, he thinks, it was to *Carpenters* uſe, but moſt part of it unto my Lord's. Further, this Steward did imploy *John Townesend* to buy *Yarn*, contrary to the Proclamation;

Article 13.

He alſo imployed others to Buy ſome for my Lord's uſe and his own. This he knows.

Sir *John Clotworthy* Witneſs

Sir *John Clotworthy* Interrogated, What he hath known done in Execution of theſe Commands, being a Juſtice of Peace?

He Anſwered, That he had formerly heard of this Proclamation; and another Dated in *May*, concerning the *Yarn* buſineſs, That there was this ſame, or the Copy of this ſame Warrant under my Lord Deputies Hand, brought to him, being a Juſtice of Peace; and he required to give Aſſiſtance in it: That he ſent for the People that had been Diſtreſſed in the buſineſs, and likewiſe the Party employed by this *Crooky*, and one *White* named in the Proclamation, to know, by what Authority they put this in Execution? Thereupon they produced both the *Proclamation* and this *Warrant*.

That he conceived, there was an Extrajudicial proceeding in it, and therefore took Examination of it; and found, in the putting of the thing in Execution, That whereas there was a Clauſe in the Proclamation, *They ſhould Seize on all* Yarn, *that was not an Hundred Threads every Skean, and ſhould Seize on it when they found it ſhort of this.*

That having taken the *Examinations*, he ſent them up to my Lord Deputy (they being now out of his head) with a *Letter* Declaring the *Abuſe of the buſineſs*: That he heard nothing in Return of the Buſineſs; but was Severely Threatned; and received a *Letter* from Mr. Secretary *Little*, then my Lord Lieutenants Secretary: *That it was very ill taken, that he interpoſed in anything, wherein my Lord was concerned:* And my Lord *Rainalaugh* had much ado to keep off a Serjeant at Arms to be ſent for him.

E. of *Strafford.*

My Lord of *Strafford* deſired the *Letter* might be ſhown: But, Sir *John* Anſwered, That it was Written four or five years agoe, and he did not keep it; but if Mr. Secretary *Little* be Interrogated, he doubts not but he will Acknowledge it.

L. *Rainalaugh.*

Lord *Rainalaugh* being Interrogated to the ſame effect?

He Anſwered, It is true, he was at *Dublin* when ſome Information had been given of Sir *John Clotworthy*, for ſomething had been done in the *Yarn* buſineſs, and that he apply'd himſelf to Sir *George Ratcliffe*, to deſire him to preſerve Sir *George* from an ill Office, and Sir *George* moved in it accordingly, ſo that Sir *John* eſcaped trouble at that time: For the Execution of the *Warrant* about the *Flax*, that he knows is this *White*, or his Fellow, or one of them, he knows not whether; but, he coming to the Fair of *Athlone* (where the Lord *Rainalaugh*'s Reſidents is) gave a Deputation to *John Dennis*, a Soldier of my Lord *Wilmots*; and, that within little time after, ſeveral Complaints were brought to him, as well by ſome of the Townſmen of *Athlone*, or divers of the Country,

Country, that this *Dennis* had ſeized on a great deal of *Yarn* in the Shops in the Town, and abroad in the Country. *Article* 13.

That he ſent for the Soldier, and Asked him, By what Authority he did ſo? Who thereupon ſhewed the Proclamation, a Warrant from my Lord-Deputy, and ſuch a kind of Warrant as this; (whether a Warrant, or a Copy, he cannot ſay) That he Examined what proportion of *Yarn* he had taken; and, he told the Lord *Rainalaugh*, he had as much as a Cart could carry: Asking him what he would do with it? The ſaid *Dennis* anſwered, He would carry it to *Dublin*: And he asking him farther, What he would do with it there? He told him (the Lord *Rainalaugh*) he had direction to deliver it to Mr. *Carpenter*, my Lord Deputy's Steward: That he, the Lord *Rainalaugh*, medled not with it, but thereupon poſted a Gentleman to *Dublin*, that had ready Acceſs to the Deputy, and told him the Complaints, and this abuſe, by execution of that Warrant: and, that though it was not agreeable to my Lord of *Strafford*'s intentions (he conceived) to have them uſed, he thought fit to Repreſent them: Thereupon, He the Lord *Rainalaugh* went to *Dublin*.

Sir *John Clotworthy* being Interrogated, What he knows about breaking open of Cheſts, for finding of *Flax*, or any thing of that Nature. Sir *John Clotworthy* Witneſs

He Anſwered, That (as it hath been laid open) immediately on the Iſſuing of theſe proclamations, and theſe Mens going abroad. The Markets were deſerted, and little came to the Markets at all, though it were the moſt Native Commodity of the Kingdom, and paid moſt parts of the *May*-Rents; For, it is That the Women work on all the Winter-Seaſon: And, when the Markets were deſerted, People were fain to bring their *Yarn* into houſes, and ſell it under ſhelter, where they might not be ſeen, nor theſe Fellows Seize on it; That thereupon theſe Men would come to Juſtices of Peace, and Officers, and they came to Sir *John* himſelf, and though he would not aſſiſt, they would threaten the Conſtables, and break open Cheſts, and thereupon he the ſaid Sir *John Clotworthy* took away *Yarn* from them, and reſtored it to the Proprietors. This was done in the Town and County of *Antrim*: that he cannot tell how long it is ſince; but, it was in purſuance of this *Proclamation* and *Warrant*.

Being Asked, Whether the People were not ready to riſe in Tumults and Uproars, where theſe were Executed?

He Anſwered, That it made very great Diſorder, and great Reaſon for it; for, they took away all they had provided for their Half years Rent, and many People, even Multitudes, ſtarved.

Lord *Rainalaugh* being Interrogated the time, Anſwered, He could not tell the certain time; but, my Lord of *Strafford* did withdraw it himſelf. L. *Rainalaugh*. Witneſs.

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Mr. *Gough* Witneſs.

Patrick Gough being Interrogated, Where he had the Remonſtrance of the Houſe of Commons?

He Anſwered, It was delivered him the 25*th.* of *February*, in the Commons Houſe of Parliament in *Ireland*, the whole Houſe Sitting: to be tranſmitted to the Committee for *Iriſh* Affairs here, with many other things.

Which *Remonſtrance* was Read, being, in effect, the moſt *Lamentable Complaint* of the *Knights*, *Citizens* and *Burgeſſes* choſen for the Provinces of *Conaught*, and *Ulſter*, touching that moſt *Cruel Extortion*, or rather Robbery committed by a Company of *Purſivants*, ſent abroad to Seize *Yarn*, by Colour of divers *Proclamations* by the Lord-Deputy, *January* and *May*, 1636.

I. *He ſaid* Purſivants *came into all the Publick Markets, and Seized on all the* Linnen-Yarn *and* Clothing, *by which the Markets were deſtroyed.*

II. *The Merchants was forced to meet the People at their private Houſes; which they underſtanding, way-layed the People, and took away their* Yarn, *and* Cloth, *and ſeized on what the Merchants had bought.*

III. *When any came to the Markets, they went to the Houſes of poor people, and took up the Hutches where their Cloth lay, and Seized on all, leaving not ſo much as to cover their Nakedneſs.*

IV. *They took away all the poor Peoples* Iron Pots, *on pretence of another* Proclamation, *ſo that on this great Cruelty, which exceeded* Pharoes, *the poor Children were forced to go into the Fields, to eat Graſs with the Beaſts of the Field, where they lay down and died by Thouſands; If it be deny'd, it will be proved by Twenty Thouſand: and the Judges of Aſſize,* &c. *procured my Lord Lieutenant to Recall all the foreſaid* Proclamations.

Mr. *Fitzgarret* Witneſs.

Mr. *Fitzgarret* being Interrogated, as to the Value of this Commodity, to the Kingdom of *Ireland*?

He Anſwered, That he hath known the Province of *Ulſter*, and had occaſion to converſe with the beſt of it for 24 years laſt paſt: That he was for 8 years imployed in the Circuit for theſe parts, and obſerved, the Natives made a very great Commodity of *Yarn* and *Linnen-Cloth*: That he may ſafely call it the *Staple-Commodity* of that part of the Kingdom; That the Merchants buying their *Yarn*, and tranſporting it to *Lancaſter*, it was a very great Commodity, and many lived on it; That the *Proclamation* and *Execution* of it (as he was informed by a Man of very good rank) Impoveriſhed the whole *Province*, eſpecially the *Iriſh Natives*, of whom few have Lands or Eſtates, but live as Tenants; and the Lands there not yielding Wheat or Barley in abundance (as other Countries) they convert the beſt Lands to the ſowing of *Flax*, and make a very great Commodity of it; That he had continual conference, eſpecially in Term-time, with the

the Beſt in thoſe parts, and eſpecially Mr. *Robert Braithwait*, Agent for my Lord of *Eſſex*, and Dr. *Cook*, of whoſe two Towns, one is ſupported by this Commodity, and Dr. *Cook* ſaid, there hath been a hundred pounds worth of *Yarn* in a day ſold and bought in that place, and by this means the Markets are waſted, the People impoveriſhed, and that he the ſaid Dr. *Cook* thinks in his Conſcience, many thouſands are famiſhed by the ſcarcity of Money that enſued on the ſeizing of this; and the extremity was ſuch, that one of the Deputies of thoſe mens authoriſing, went into the houſe of a Scotchman in the parts of *Ulſter* (himſelf being in *England* or *Scotland*) would open the Cheſts, and uſed ſuch cruelty, that they thruſt a ſtick into the Womans throat, and ſhe died of it, and the Man was tried for it, as he was informed, *Article 13.*

And ſo Mr. *Maynard* concluded the Charge, ſuppoſing it to be ſufficiently proved. Mr. *Maynard.*

After a little reſpite, my Lord of *Strafford* made his defence in ſubſtance as followeth.

That in this Charge he hears ſomething tending to Oppreſſion, but nothing at all towards Treaſon, for which he is only to anſwer.

That the intention of theſe Proclamations touching *Yarn*, was certainly very good, and he thinks the Power very lawfully executed, being but temporary, to take away an abuſe, and make it better for the Common-wealth.

That he conceives not, how thoſe Proclamations ſhould be particularly laid on him, for he hath very good Company goes along with him being ſet out by the Deputies and Council, and affixed to them the Hands of my Lord *Loſius*, the Lord Primate, the Arch-Biſhop of *Dublin*, Earl of *Ormond*, Lord *Dillon*, Sir *Adam Loſius*, the two Chief Juſtices, and others: That he had rather anſwer all, than impute any thing to any body elſe, but he believes their Lordſhips will conceive he is not particularly anſwerable, for things done by the advice of the Council, as for the beſt.

That he conceives they had power to iſſue theſe Proclamations, as in other things was frequent, as in Drawing by the Horſe tail, burning the Straw, and ſo taking the Corn from it; to bring them from theſe Iriſh Cuſtoms to the Engliſh Manners: So in this, that their winding of *Thread* might be brought off with more conveniency, as being of ſo much more value; for the unwinding was as much trouble as the thing was worth, ſo that the authority was lawful, and well executed in the granting of it.

He craved leave to tell their Lordſhips wherefore it was, being deſirous to regulate this buſineſs more than any other thing whatſoever; And it was out of that Duty and Service he did, and ever ſhould owe to the Engliſh Nation; however for the preſent, he may not be thought one, he had thoſe affections, and ſhall have to his death, to wiſh the Kingdom all proſperity and happineſs, in all the parts of it.

That at his coming over, he did obſerve, the *Wooll* of that Kingdom did increaſe very much, that if it ſhould there be wrought into *Cloth*, it would be at very great prejudice in time to the Clothing trade of *England*, and therefore he was willing, as much as he might lawfully and fairly, to diſcourage

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diſcourage that Trade: That on the other ſide, he was deſirous to ſet up the trade of *Linnen cloth*, which would be beneficial there, and not prejudice the trade of *England*; But it was extreamly to his loſs, for he ſays, he loſt 3000 *l.* and the Steward's Chamber being ſearched, and it appearing ſo, the Accounts were delivered back again; ſo that he conceives they had lawful power ſo to do, till a Law might make it more certain and ſetled; and then he is anſwerable for nothing in all the reſt, becauſe the execution was nothing to him, and the abuſes of the Officers he is not to anſwer for, of whom *Croky* was the principal Executor, and if there was an Offender, he is the greateſt Offender himſelf, and my Lord *Rainalaugh* tells their Lordſhips plainly and truly, that upon complaint of the ill execution of it, it was abſolutely recalled, and that within two years: So if it were a fault, he was not incorrigible, but willing to amend it on the firſt notice.

For the Warrant, there is nothing proved of any thing amiſs in him, but it goes only to ſecond the Proclamation, that there ſhould be aſſiſtance in the due and juſt execution of it: only it ſays the *Yarn* ſhall be brought to *Dublin*, there to be diſpoſed of, as he ſhould direct; but there is no proof of any brought to him, only my Lord *Rainalaugh* mentions a Cart-load brought to *Dublin*, as the fellow told him; and *Croky* ſays, ſome was brought to *Dublin*, (but he knows not how much) and it was converted partly to his uſe, partly to *Carpenter*'s, but he is a ſingle witneſs; whereas my Lord *Rainalaugh* ſays, there was taken at *Athlone* (as he was told) a Cart-load of *Yarn*, and Sir *John Clotworthy* ſays, they ſtarved by multitudes in *Ulſter*, my Lord of *Strafford* ſaid, he could not conceive how ſo little a quantity taken in *Conaught*, ſhould be an occaſion of ſtarving multitudes in *Ulſter* nor the ſmall quantities taken by *Croky*; but if there were ſo many ſtarved, it muſt be occaſioned by ſome other means than this.

That his Looms ſhould be an occaſion of ſtarving ſo many Men, he conceives very Strange, for in truth, the value of Cloth made in thoſe Looms in a year (which he left his Tenants to manage) was not, as he remembers, above 16 or 1700 *l.* and if their Lordſhips conſider the value of the *Yarn* with the Labour, they would wonder the making of ſuch a quantity in a year ſhould ſtarve ſo many thouſands.

It is very true, (he ſaid) he's ſorry for that Remonſtrance, read of the Commons Houſe in *Ireland*, thinking he had merited a better opinion in that Kingdom; but howſoever they have been informed, he doubts not, but when things are ſhewed them more clearly, than they have been hitherto, he ſhall have their good opinion ſtill; he never in truth, doing or ſaying any thing in all his life, but with very clear and faithful intentions to the good and proſperity of that Common-wealth and Kingdom; his Lordſhip added, That he had ſome little fortune amongſt them, not great indeed, nothing near that which is reported, hardly the fifth part, but ſomething he had there, honeſtly and juſtly come by, and for that reaſon he had cauſe to wiſh well to the Kingdom, and it grieved him extreamly to hear ſuch a Remonſtrance read: There would be a time he hoped, when he ſhould have means to give them better ſatisfaction; but it is but a Charge, and cannot (under favour) be the proof of a Charge, being only received by information of witneſſes, and no Oath being given by the Commons-Houſe, he conceived it could not be made a proof againſt him, but the truth of the Charge comes to be examined; for the Remonſtrance ſays, that theſe things will be prove by 20000. To which he can ſay nothing, but that he is infinitely ſorry, he ſhould be ſo miſta-

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ken in that Kingdom, where (to his beſt underſtanding) his Conſcience tells him he hath deſerved very well (with modeſty be it ſpoken, his Lordſhip added) of them all, and deſired to do Juſtice amongſt them, and there would come a time when he ſhould be better underſtood, as well there, as here he hoped. *Article 13.*

For the Teſtimony of Mr. *Fitzgarret*, he ſpeaks nothing of knowledge, but what he hath been informed and heard, and what hath been credibly reported to him, And thoſe are no proofs to be judicially taken, as he conceived, nothing being by Mr. *Fitzgarret* ſpoken, but by report; and their Lordſhips have heard this reported asw ell as he, yet knew not whether it be true, further than is proved.

So he concluded where he began, ſomething may look like an oppreſſion in them that did execute it, but nothing as to himſelf and the reſt of the Council, who iſſued the Proclamation on juſt and warrantable grounds, and according to that Power they had from the King, which he conceived was a full and clear acquittal of him (humbly ſubmitting to their Lordſhips better Judgments) of this Article, ſo far forth, as it amounts in any kind, to convince him of high Treaſon.

To which Mr. *Maynard* made reply in ſubſtance as followeth, And firſt he obſerved, Mr. *Maynard.*

That my Lord of *Strafford* was ſtill ſtriking on the ſame ſtring, here (ſaid he) is no Treaſon, though ſomething tending to oppreſſion, and ſo at this rate, he can never want an anſwer: for if this be not (in this particular) as high and willful an overthrow of the fundamental Rules and Juſtice of the Kingdom, as can be imagined, I appeal to your Lordſhips: and that is it wherewith he is charged, not as if this ſingly would amount to Treaſon: And,

Whereas his Lordſhip ſays, *his intention was good*, if (when and oppreſſion of High Juſtice is committed) it be enough to ſay, *he had a good intention*, it is a good defence to take away mens Goods, and apply them to his own uſe; and ſo this being Practiced by him univerſally, on a whole Kingdom, may be excuſed by a *good intention*: But God knows the heart, your Lordſhips are Judges of his actions and oppreſſions. He ſays the Proclamation was a Temporary Law to take away Goods, break open Houſes, forbid and annihilate Contracts; this he ſays in the face of the Kingdom, ſo that there cannot be better evidence given againſt him, than comes from his own mouth: For that, which is put upon him, is, That he would erect a Government that depends meerly upon Will, and take away that which is oblided to Laws. To ſay a Proclamation is a Temporary Law, is to make a Law, as long as it pleaſes them that award the Proclamation to continue: For when ſhall it have an end, but by the pleaſure of them that ſend it forth? He would excuſe himſelf, that he hath gone in good company: Did the Commons inſiſt on this, as a ſingle miſdemeanor, my Lord might ſay, he is not the only man that deſerves puniſhment, but he cannot ſay, but that he is the Principal Man, and indeed, and in effect the ſole man, as it will appear in the anſwer to the reſt. They are to blame that follow this miſguidance, but he is not innocent that draws others into ſuch actions with him.

Mr. *Maynard* obſerved the nature of the Proclamation, it was not to appoint a regulation, but to take away the ſubjects Goods; neither

Article 13. ther giving them time to vend the Commodities in their hands, nor to depart from that (if it were an ill uſage) but forthwith, as ſoon as the Proclamation was out, the Goods muſt be Seized, becauſe they did not do the thing they could not do.

He ſaith, the Execution is nothing to himſelf, but to his Agents. Surely, he that will command unjuſt and evil things, is not a whit leſs guilty, becauſe he hath Miniſters, that will apply themſelves to his pleaſure, to execute unlawful Commands. He Commands, they execute it; and when they had executed it, they bring it to his Looms, that is to his profit.

He ſays, it was recalled after two years or thereabouts, but your Lordſhips may remember, on what misfortune and cruelty it was recalled, the tumults, the ſtirs, the oppreſſions it did produce: And his recalling it after two years, makes him not innocent before, when 1000 or 2000 or 3000 had periſhed by the oppreſſion of it; he was not innocent, becauſe 10000 or 12000 did not periſh; it was too long kept on foot, and he that doth unlawful things in ſo great a meaſure, is not to be excuſed, becauſe he cannot bring them wholly to paſs. For that's all can be ſaid, He could go no further, and therefore he leaves it off.

He ſays, his Warrant is not amiſs; but it is extreamly amiſs, for the Miniſter ſhould advertiſe the State touching the Subjects Conformities; but my Lord of *Strafford* will have them preſently enter the Houſe, and ſeize the Goods: the Proclamation puts them on it, but the Warrants commanded Juſtices of Peace, and all Miniſters of Juſtice, to come in and countenance this cruelty; and when they did not conform to it they had reproofs from my Lord's Servants. And if the point were only to produce witneſs, that the Flax or Yarn came to my Lord's own hands, it might be deſpaired of, but when the profit comes to his hands by his Agents, and thoſe ſet on work by him, it is no excuſe to ſay it was done by others.

Mr. *Maynard* ſaid further, he wondred my Lord ſhould ſay, there was no proof, when there were too expreſs witneſſes; my Lord ſaid, he heard but of a Cart-load, Mr. *Maynard* anſwered, he heard not the word, but he heard of about a Cart-load, and could that ſtarve 1000 men? Yet if a Cart-load be not ſufficient to ſtarve 1000 men, if there be more than 1000 ſtarved, then more than a Cart-load was ſeized. At that time there came in but a Cart load, but there came in by good quantities, when it came in by Cart-loads.

He ſays the Remonſtrance is but a charge, but it comes in on good proof, and it is concerning a whole Province, and (as it is likely) they were there that knew of the miſeries that befell the Provinces.

Mr. *Maynard* further obſerved, that heretofore in the matter of *Tobacco* he told your Lordſhips, he had a Command; it was expected, he would have produced ſomething to the purpoſe now, but God be thanked he hath not: He ſays *Tobacco* is a ſuperfluous thing, but theſe things that are for clothing are not ſuperfluous, and being he hath gone into this exceſs, Mr. *Maynard* concluded with this, that he muſt leave him to their Lordſhips Judgments, for he had made an excuſe, tho' that he ſaid did not reach an excuſe.

And whereas my Lord ſaid, the Cart-load of *Yarn* was taken in *Connaught*, not in *Ulſter*.

Mr. *Glyn*. Mr. *Glyn* added that one thing was obſerved from my Lord of *Strafford*'s own evidence, which ſeemed to convince him of what he denied. He pretends this was for advancement of Trade, not for his own uſe, and that there was 1700 *l.* worth made in a year, but himſelf caſting his

his Accompts ſays, he loſt 3000 *l.* ſo he owns it by the loſs, but not by the benefit, which convinces the principal Point himſelf denies. *Article* 13.

Here my Lord of *Strafford* deſired leave to explain himſelf, that (when he ſaid he loſt 3000 *l.* and 1700 *l.* a year made of it) he ſaid he made Cloth there 6 or 7 years, as he took it, and the Cloth it ſelf, not the Yarn, was worth 1700 *l.* for the Yarn was not worth 400 *l.* and in that time he might very well looſe 3000 *l.*

And ſo the Thirteenth Article *was concluded, and the* Fourteenth Article *being for the preſent laid aſide, the Committee proceeded to the* Fifteenth Article.

THE Fifteenth Article.

The Charge.

Article 15. That the ſaid Earl of Strafford trayterouſly and wickedly deviſed and contrived, by force of Arms, and in a warlike manner, to ſubdue the Subjects of the ſaid Realm of Ireland, and to bring them under his Tyrannical Power and Will; and in purſuance of theſe wicked and trayterous Purpoſes aforeſaid, the ſaid Earl of Strafford, in the Eighth Year of His Majeſties Reign, did, by his own Authority, without any Warrant or colour of Law, Tax and Impoſe great Sums of Money upon the Towns of Baltemore, Banden-Bridge, Talowe, and divers other Towns and Places in the ſaid Realm of Ireland; and did cauſe the ſame to be levied upon the Inhabitants of thoſe Towns by Troops of Souldiers, with force and Arms, in a War-like manner. And on the Ninth day of March, in the Twelfth Year of His now Majeſties Reign, traiterouſly did give Authority unto Robert Savile, a Serjeant at Arms, and to the Captains of the Companies of Souldiers, in ſeveral parts of that Realm, to ſend ſuch numbers of Souldiers to lie on the Lands and Houſes of ſuch as would not conform to his Orders, untill they ſhould render Obedience to his ſaid Orders and Warrants, and after ſuch ſubmiſſion (and not before) the ſaid Souldiers to return to their Garriſons. And did alſo iſſue the like Warrants unto divers others, which Warrants were in War-like manner, with Force and Arms, put in Execution accordingly; and by ſuch War-like means did force divers of His Majeſties Subjects of that Realm, to ſubmit themſelves to his unlawful Commands.

And in the ſaid Twelfth Year of His Majeſties Reign, the ſaid Earl of Strafford did traiterouſly cauſe certain Troops of Horſe and Foot, armed in War-like manner, and in War-like array, with Force and Arms, to expel Richard Butler from the Poſſeſſion of the Mannor of Caſtle-Cumber, in the Territory of Idough, in the ſaid Realm of Ireland, and did likewiſe, and in like War-like manner, expel divers of His Majeſties Subjects from their Houſes, Families, and poſſeſſions; as namely, Edward O Brenman, Owen Oberman, John Brenman, Patrick Oberman, Sir Cyprian Horſefield, and divers others, to the number of about an hundred Families, and took and impriſoned them and their Wives, and carried them Priſoners to Dublin, and there detained, untill they did yield up, ſurrender, or releaſe their reſpective Eſtates and Rights.

And the ſaid Earl, in like War-like manner, hath during his Government of the ſaid Kingdom of Ireland, ſubdued divers others of His Majeſties Subjects there to his will, and thereby, and by the means aforeſaid, hath levied War within the ſaid Realm againſt His Majeſty and His Liege-people of that Kingdom.

Mr.

Mr. Palmer *proceeded to open the* 15*th* Article, *which concurred with the precedent in point of Evidence, to make good the Charge of the* Commons *againſt the Lord of* Strafford, *in point of* High-Treaſon. *The main Accuſation being, his labouring to ſubvert the eſtabliſhed Laws and Government, and inſtead of them, to introduce an Arbitrary and Tyrannical Power.*

Article 15. *Charge.*

Mr. *Palmer.*

THAT this laid in the 15*th* Article, doth more than prove this Charge, charging him with Acts of Force and Hoſtility, which are not only an Evidence to prove his Deſign, but are actual ſubverſions of Law, and introducing of an Arbitrary Power, as their Lordſhips will perceive, when they ſhall hear how he executed his Commands by Soldiers.

And as this contributes with the reſt in proof of the main Charge, ſo he humbly offered, that this *Article*, ſingly and individually of it ſelf, contained a Charge of High Treaſon, and that the nature of the offence would appear in the proofs of the *Article*.

The *Article* is firſt general, That he did traiterouſly deviſe, to ſubdue the Subjects of the Realm of *Ireland*, by force of Arms, in a Warlike manner, under his Tyrannical Power and Will.

In purſuance of theſe things that are charged in the *Article*; the firſt they ſaid, they would paſs over at that time, and my Lord of *Strafford* alſo had notice, that they intended to wave it fot the preſent.

The ſecond is, that 9 *March* 12 of the King, he gave a Warrant to one *Savill*, a Serjeant at Arms, and to Captains and Soldiers of that Kingdom, to Quarter on the Houſes and Lands of ſuch, as would not conform to render Obedience to his Orders, ſuch number of Soldiers, as the Serjeant at Arms ſhould think fit, according to the demerit of the Delinquents, and to be kept there, untill they made ſubmiſſion, and then to return, and not before. And the like Warrants were iſſued to others, and to the Subjects of that Realm, who were forced to ſubmit to his Illegal Commands, and this is charged to be a levying of War againſt the King, and his People.

Your Lordſhips may pleaſe to remember, what a Power my Lord of *Strafford* had aſſumed to himſelf from the Courts of Juſtice eſtabliſhed by Law, in taking to himſelf an Arbitrary Power, to determine Cauſes on

Article 15. Petitions, and that without any legal Proceſs. And he intended to himſelf, an execution of theſe Orders in this manner If a Petition was preſented, Firſt a ſignification went to the Party, that he ſhould ſatisfie the Complaint, elſe ſhew cauſe; if he did not appear, then there went a Meſſenger, or Purſivant; on his *Affidavit* that the Party was not found (as well he might not be found) then an Attachment: after that, the Serjeant at Arms. This Serjeant at Arms had always with him a Warrant *dormant*, (not a particular Warrant in the Caſe complained of) that whenſoever he ſhould have an Order to fetch any Man in (if once he had made *Affidavit* he could not be found) he was by virtue of that Warrant, to repair to the next Garriſon, and there to take ſuch numbers of Soldiers, as he thought fit, and quarter them on the Houſe of the Party: and this was as ordinarily executed, as any powers of Law in legal Caſes.

In the execution of this, the Party ſuffered as much inſolency, as is incident to War; their Cattel taken, their Corn thraſh'd out, their growing Corn cut, their Houſes burnt, and ſome exiled, and forced to leave their Country, and fly to remote Places, by reaſon of their Soldiers inſolencies.

The method propounded is, Firſt, to prove the Fact: then to obſerve the nature of the offence, both from the *Stat.* of 25 *Edw.* 3. and alſo from a particular *Stat.* in *Ireland*, 18 *H.* 6. whereby the Offender in this very Caſe, is adjudged to be a Traytor.

Mr. *Savill* a Witneſs. Mr. *Savile* the Serjeant at Arms produced and Sworn, and a Copy of his Warrant offered. My Lord of *Strafford* excepted againſt the reading of the Copy in a Charge of High Treaſon; adding, that it concerned him very much, he being to be tryed for his Life and Honour, ſince upon this the whole Charge was to be grounded. On other things he did not inſiſt ſo much, but ſubmitted to their Lordſhips pleaſure, becauſe they ſaid they would conſider them in their Judgement; but this being the ground and foundation, whereupon they intend to Charge him with High Treaſon, he beſought their Lordſhips to conſider it, with that Honour and Goodneſs, and Juſtice they did in all things.

Mr. *Glyn*. Mr. *Glyn* in Anſwer alledged, That their Lordſhips had over-ruled it in the Caſe of the Biſhop of *Downe*. That (ſuppoſe a Warrant is offered by force, whereby High Treaſon is committed) if a Copy may not be given in evidence, then let him that is guilty in ſuch a Caſe, get away the Originals, it clears him of the Treaſon: beſides, it is no matter of Record: and Mr. *Maynard* obſerved, That if one writes a Letter, and therein commands one to commit Treaſon; if the Letter be burnt, this Man ſhall not prove the Command, if only the Original muſt make it good.

Mr. *Savill* a Witneſs. Mr. *Savill* being asked, What was become of the Original Warrant?

He Anſwered, It was in *Ireland*, he not expecting any queſtion about this buſineſs, but this was the Copy of it, and under his own Hand.

My Lord of *Strafford* offered to their Lordſhips, That he that is to Swear it to be a true Copy, is the Man, that (if a fault be committed) is in fault himſelf as much as any, for he is the Man that executed this Treaſon, and now he ſhall Swear to the juſtifying of his own act.

Mr.

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Mr. *Savill* being (on my Lord of *Clare*'s motion) Asked, How they came by the Copy?

He Anſwered, He knew not how it came into their hands.

Mr. *Palmer*. But, Mr. *Palmer* added, Now he ſees it in our hands, and he knows it: And that this Copy cannot be queſtioned, unleſs he queſtion what is done already; for in this very Caſe, a Copy is allowed to be an Evidence, for the relation it hath to the greatneſs of the Charge, as to my Lord of *Strafford*; and it cannot alter the Juſtice of the Evidence; for, if it be an Evidence, it is an Evidence in whatſoever the Cauſe is.

Mr. *Savill*. Mr. *Savill* being Asked, How he came to ſet his Hand to the Warrant?

He Anſwered, That in *January* laſt there came to him one *William Somer*, Secretary to my Lord *Rainalagh*, and told him; Mr. Serjeant *Savill*, you had a Warrant to Quarter Soldiers on one within the Town of *Athlone*, but the parties were Friends, and you removed them; one of thoſe Soldiers committing Extortion, in taking away two Pewter Diſhes, and is to be Tryed at our next ſitting; and, unleſs the Soldier have a Copy of your Warrant, he is like to ſuffer in it: That he thereupon Anſwered, He could not deny it; and brought the Original Warrant, and being a good Clerk, he bad him Copy it out.

He ſays, he deſired you to let ſome of your own Men do it, and I will give him for his pains ——

That he, the ſaid Mr. *Savill*, did thereupon deliver the Original Warrant to his Servant *Edmond Brumingham*, as he remembers, who Copied it out. That Mr. *Somer* came, and told him, Here is a Copy: That he asked Mr. *Somer*, Whether he had examined it? Yes indeed, ſaith he, it is a true Copy: That upon that, he the ſaid Mr. *Savill* delivered this to Mr. *Somer*, under his Hand, but did not compare it himſelf, yet is confident it is a true Copy.

Mr. *Maynard*. Mr. *Maynard* obſerved, That they Charged a Treaſon in an Act, That my Lord of *Strafford* gave Authority to do ſuch athing; not that he gave this particulal Warrant; and though they proved no Copy at all, yet proving the Command, it maintained ſufficiently the Charge: for a *Treaſon* may be a *Treaſon*, though not put in Execution. That they produced not this Copy, as neceſſary to give a preciſe Copy, but to prove that there was ſuch a Command and Authority given; and, as a farther Evidence, they ſhew a Copy taken on ſuch an occaſion: And, Witneſſes are here, who will clearly Depoſe, That this is the very ſubſtance and effect of the Warrant given under my Lord of *Strafford*'s Hand.

L. *Strafford*. Here my Lord of *Strafford* interpoſed; That it was Charged on him in particular, That on the *9th* of *May*, in the *12th* year of the King, he gave Traiterouſly, Authority to *Robert Savill*, &c.

Mr. *Palmer*. But Mr. *Palmer* inſiſted, That they did not find much on Reading this Warrant; but if the Authority was proved it was ſufficient.

And

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Mr. *Pym.*

And Mr. *Pym* added; That they could not wave any part of the Evidence, and therefore prayed it might be read.

Mr. *Savil* a Witneſs.

Mr. *Savill* being (on the motion of the Earl of *Bath*) Examined, Whether this was the occaſion of his coming over? and, Whether he had not ſaid, He had brought all his Warrants with him?

He Anſwered, That by the *Oath* he hath taken, that he knew nothing of it, till the Night he came to the City: That he had not ſaid, he had brought all his Warrants; for he had none; and ſhould have ſpoken an Untruth if he had ſaid it: and he came on his own occaſions, not ſent for.

Being Asked, Whether he thought in his Conſcience, That it was a True Copy?

He Anſwered, Yes; I am confident for the ſubſtance of it.

To Determine the Queſtion, their Lordſhips reſolved to *Adjourn* to the Houſe above.

Mr. *Palmer.*

Mr. *Palmer* deſiring it might be Remembred, That the Copy was Signed by *Savill*'s Hand; That *Savill* was the Perſon to whom the Warrant was directed; and, The Man that hath the Principal Warrant in his Cuſtody; That gave direction for the Copying of it; and added, That himſelf was ready to prove the ſubſtance and effect of it.

Their Lordſhips *Adjourning*, and ſhortly after returning:

L. *Steward.*

The Lord *Steward* Reported their Lordſhips *Reſolution*, viz. *That their Lordſhips had taken into Conſideration this Copy, and thought of it ſeriouſly; and that in this individual Caſe, they held it not fit to be read, becauſe it was not Atteſted: And that their Lordſhips, in no other Caſe ſince the Tryal began, had admitted the like Copy, but where it was Atteſted: That they conceived, this could be no Impediment, or failure in the proceeding, becauſe the truth, and verity of it would depend on the firſt general power given to execute it, which they that manage the Evidence for the Commons, ſay, they can prove.*

Mr. *Palmer.*

Mr. *Palmer* thereupon alleadged, That they would apply themſelves to their Lordſhips Directions: That the thing offered in Evidence had been executed; That Soldiers (according to what was depoſed to be the effect of this Warrant) have been Quartered on the Houſes, and Lands of ſuch Perſons, as have been Complained of on Paper Petitions, either in caſe they have not appeared, or after appearance, did not render obedience.

Mr. *Savill.*

Mr. *Savill* being Asked, What he did in that kind? and, What Warrant he had for it?

He Anſwered, That the Warrant, by Virtue of which, he laid Soldiers on ſeveral *Delinquents* Lands, was delivered to him by my Lord Deputy's

Deputy's Secretary, Mr. *Edmonds* as he remembred) by Virtue of which Warrant, after five or ſix ſeveral times going for the *Delinquents*, when they could not by any means be brought in, he did (according to my Lord-Deputy's Command,) make uſe of his Warrant, and laid Soldiers on them till they had ſubmitted themſelves: And that the Warrant was given under my Lord-Deputy's Hand. *Article* 15.

Being Asked, What he meant by *Delinquents?*

He Anſwered, thus; He ever obſerved on Complaints made to his Lordſhip, my Lord Iſſued his Command; This Command was ſerved on the Party Complained of; And, on Return of that, Oath being made of it, that the Party gave not ſatisfaction, A Warrant was Iſſued to the Purſivant; On the Purſivants return (he not meeting with the Party) the Party poſſibly abſenting himſelf, or Reſcued out of the Purſivant's hands, there is an Oath taken by the Purſivant, a Warrant given to the Serjeant at Arms, who goes in Perſon, or ſends his Deputy three or four or five times, and when the Party cannot be got, then he lays Soldiers.

Being Asked, What he means by laying of Soldiers?

He Anſwered, That he was to go to the Captain, or Chief Officer of the next Company, or Garriſon, to Complain of the Party he calls *Delinquent*, and ſhow my Lord Deputy's Warrant, and then he Commands them to riſe with ſuch a number, as he ſhall think convenient, and March to the Party Complained of, in whoſe Houſe they lie, *till they receive further direction.*

Being Asked of the Queſtions ſeverally.

He Anſwered, That it was by a General Warrant he laid Soldiers on *Delinquents*, and that he had a particular Warrant firſt, but when that was diſobeyed, he uſed this General one, that the Soldiers might not March but with an Officer; That he did never ſee thoſe Soldiers go on Service like Naked Men, but they had ſuch Arms as were fit for Soldiers; That he hath ſeen them Armed with Muskets, Swords, and ſuch furniture. That they have meat and drink from the Party they lie on, though (for his own part) he had never Meals Meat from him.

Being Asked, Whether they lie on the Party's Lands?

He Anſwered, For that purpoſe they go.

Being asked, On how many ſeveral Perſons he had done it? and, Whether it was ordinarily done?

He Anſwered, That he had done it on ſeveral occaſions; and that he was afraid that ſometimes he ſhould be Complained of to my Lord-Deputy, in not putting it in Execution, when the Parties have thought

Article 15.

thought he the *Deponent* hath been favourable without cauſe: That he had, on ſeveral occaſions, executed his Command; as namely, he cauſed Soldiers to be laid on one *Francis Ditton*, likewiſe on one *Conolly*, and on *Luke Borne*, as he takes it, and ſome others, whereof he doth not remember the particulars: But thoſe Men could not be brought in by any other means, that he knew.

Being asked, Whether it hath been ordinarily on all occaſions, and on Perſons of Quality as well as others?

He Anſwered, That when he had my Lord Deputy's Warrant in a general way, he never made any difference of Perſons.

Being Asked, Whether by Horſe or Foot?

He Anſwered, Never Horſe that he knew of, unleſs in caſe of Neceſſity, when no Foot was to be had near them; And, that was but once.

Being Asked, Whether the Number was left to his diſcretion, or a certain number aſſigned?

He Anſwered, The Warrant ſays, he ſhall raiſe ſo many, as ſhall be thought fit in the diſcretion of the Sergeant.

Being Asked, Hath this been Executed on ſeveral parts of the Kingdom?

He Anſwered, Yes; as well in one part of the Kingdom as another, when the occaſion ſerved.

Being Asked, Whether it was done by himſelf only, or another?

He Anſwered, There was none but himſelf, till the Lord-Deputy, for the better Service of His Majeſty, was pleaſed to direct another.

Being Asked, Whether my Lord-Deputy ever ſpake to him, about the Complaints made of him?

He Anſwered, Never, In Good Faith; and he thinks my Lord will clear him of that.

Being Asked, Was there not Complaints made of his ſhowing Favour?

He Anſwered, He muſt Confeſs there was.

Being Asked, What he ſaid on that occaſion?

He Anſwered, Sometimes my Lord's Secretary would demand, Why he would not put the Warrant in Execution? and he (this *Deponent*

ponent) would ſay, They were poor Men: But, it never came to my Lord's hands, ſo far as he could remember. *Article* 15.

Being Asked, on my Lord of *Strafford*'s motion, What number of Soldiers he commonly laid, and what was the greateſt number uſually?

He Anſwered, That the greateſt number was Five and an Officer; but, for the moſt part 2, or 3, or 4, but, of late, he hath heard of more.

Being Asked, Whether another had not a *Warrant* to the ſame purpoſe? and, How many he had laid?

He Anſwered, He never ſaw the *Warrant*; but, he hath heard he hath, by Virtue of ſuch a *Warrant*, laid Soldiers, but he knows not how many; he not looking to the actions of others, but his own: and he wiſhed it had all lain in his power ſtill, and he had done well enough.

Patrick Gough being Asked, Whether he had ſeen ſuch a *Warrant* under the Hand and Seal of my Lord of *Strafford*, whereby the Soldiers were Aſſeſſed, and under whoſe Hand? Mr. *Gough* a Witneſs.

He Anſwered, He had ſeen a *Warrant*, Signed by my Lord *Wentworth* on the top, and a Seal to it, directed to the Serjeant *Savill*, to the ſame purpoſe: That an *Affidavit* made to him of the abſence of the Contemptor of the firſt *Warrant*, he might lay Soldiers on the Land; And that he made ſearch for it, and ſaw it in Secretary *Little*'s Book, but it was long ago.

Being Asked, What he knew of the Execution of this *Warrant*? Upon whom? How many? and, Upon what Occaſion?

He Anſwered, It was a conſtant courſe, on a *Command*, and *Affidavit* made of ſerving a *Warrant*, to the Purſivant, on the Parties failing, an *Attachment* was granted to the Serjeant, and a *Dormant Warrant*, that on his not finding him, he might lay Soldiers on the Land; This was conſtantly practiſed during my Lord's Government, as he obſerved; And particularly, upon one *Richard Butler* in the County of *Typerary* laſt Summer: And, no other cauſe could he learn or know, but not giving obedience to my Lord of *Strafford*'s Orders, The Original Contempt.

Being Interrogated, What Inſolencies he had known committed by Soldiers in this Caſe?

He Anſwered, That he had heard, Soldiers were left on one *Berne*'s Land, and they took other Mens Cattle that Grazed on the Lands, and killed them, and burnt part of the Houſe (as he was told) and broke up the Hutches were he had his Corn, and ſent it to the next Market-Town to buy Beer for them.

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Being Asked (on my Lord of *Strafford's* motion) Whether in his Warrant any Command was given to take other Mens Goods?

He Anſwered, He believed no ſuch word was expreſt in the Warrant.

Being Asked, Whether there was not Authority to lay Soldiers? and, What was meant by laying of Soldiers?

He Anſwered, The Warrant Imports, That, on their Default, or Abſence, the Serjeant at Arms may lay Soldiers on the Land, there to lie to feed on the Contemptors Goods, and live there till he ſurrender his Body to the Serjeant at Arms. Then the Serjeant gives notice to the Soldiers, that the Party is come in, and they go to their Garriſon.

Richard Welſh a Witneſs.

Richard Welſh Sworn: Being Interrogated, Whether he had ſeen a Warrant under my Lord of *Strafford's* Hand, for laying of Soldiers?

He Anſwered, That he had ſeen my Lord Deputy's Hand Signed (if it was his Hand) *Wentworth*: as he had ſeen it to many Orders being very well acquainted with his Hand: That he had ſeen his Hand to ſuch a Warrant; that the Man that ſhowed him the Warrant, was one of my Lord Deputy's Troopers (by name *Patrick Brady*, who told him) he was going to fetch Soldiers by direction of Serjeant *Savill*, to lay on one *Francis Dillon*, who was in Contempt at this *Brady's* own Suit: That the occaſion he ſhewed him it, was; That *Brady* was Indebted to him (the *Deponent*) and he (the *Deponent*) intending to Petition my Lord againſt him, *Brady* deſired him to forbear it, for he had a good way to get Money, and ſhewed him the Warrant; he (the *Deponent*) ſaw it under my Lord Deputy's Hand and Seal.

Being Asked, What was the Suit? He ſaid, The Suit was on a Paper-Petition; for (as he remembers) 100 *l.* and ſo *Dillon* falling into Contempt, a Warrant was iſſued to the Purſivant, and ſo, according to the practice, the Soldiers were laid on him.

Being Asked, What was the effect of the Warrant under my Lord Deputy's Hand?

He Anſwered, That the effect of the Warrant was, That the Serjeant at Arms ſhould bring upon the Delinquents (ſuch as was in contempt) out of the next Garriſon, Soldiers, with an Officer, and lay them on the Delinquent's Land, till he had rendered his Body.

Patrick Cleare a Witneſs.

Patrick Cleare Sworn: was Interrogated, What Execution he knew of my Lord of *Strafford's* Warrant, to lay Soldiers?

He Anſwered, That he had ſeen no Execution done: but, he had a Letter ſent out of the Country, by a Gentlewoman's Son, and and ſhe deſired him (the *Deponent*) to Petition, to have Soldiers that

that were laid on her Land diſcharged, it being only for a Contempt, in not Appearing. That he got a Copy of the Petition, her Name being *Agnes White*, and therein ſhe Petition'd my Lord of *Strafford* to have them diſcharged; and ſaid, ſhe was very old, and would die, if ſhe ſubmitted her ſelf to any Serjeants at Arms. The Order was, That upon an *Affidavit* he would give other Direction. The Son made *Affidavit*, that ſhe was 80 years old: On that, an Order was made, requiring Serjeant *Savill* to take off the Soldiers, and trouble her no more, ſhe paying him his Fees. And he knew further, That Serjeant *Pigott* having an Attachment againſt *John Barrow*, who was gone away, by reaſon of certain Cruelties, ſent after him, by Secretary *Little*, who rhreatned to put Soldiers on him, if he came not to compound with him for his Fees. *Article* 15.

Being Asked, How far the old Woman lived from *Dublin*?

He Anſwered, In the County of *Kilkenny*, 40 or 50 Miles from *Dublin*, and this was four years ago.

Being Interrogated, What the Contempt was?

He Anſwered, that the Petitioner ſaid, He was dammaged 500 *l.* by not performing Covenants; ſo ſhe was commanded to pay 500*l.* or elſe to ſhew cauſe to the contrary: She was an old woman, always on her Bed, and did not appear, not knowing what belonged to Law. *Affidavit* being made, That ſhe appeared not, nor gave ſatisfaction, an Attachment iſſued to the Purſivant; The Purſivant could not find her, on *Affidavit*. The Serjeant at Arms goes for her, and, not finding her, the firſt or ſecond time; he layes Soldiers on her: And there they remained eating and drinking three or four weeks, till he got them diſcharged. And he heard by the Serjeant at Arms, that this was very uſually and ordinarily done.

Being Asked, If *Pigott* had ſuch a Warrant?

He Anſwered, He did not ſee the Warrant, but *Pigott* himſelf ſaid, He would lay Soldiers on *Barrow*, if he did not ſubmit and pay Fees

Nicholas Ardah Sworn: Being required to deliver what he knew concerning laying of Soldiers in caſe of Paper-Petitions. *Nicholas Ardah* a Witneſs.

He Anſwered, That he had heard of many, but never ſaw any but one, which was in the City of *Dublin*; One *Tho. Cuſacke* of *Dublin* was ſeized by Serjeant *Savill*, with Corporal *Hamond*, and ſome others of my Lord Lieutenant's Troops, for not obeying an Order within theſe two years and a half: That he ſaw the Horſe, and the Piſtols at their Sadles; there were two or three as he takes it.

Being Asked in what Caſe it was?

Article 15.

He Anſwered, A Merchant of *Manchester*, truſted with Money, or Commodities, and being not able to pay him, he ſued him, and ſo far, that he got a Warrant; and this was before my Lord Deputy, on a Paper-Petition.

Being Asked, How long the Soldiers remained there?

He Anſwered, ſome three or four days, till the Man ſurrendred himſelf to the Serjeant at Armes.

Berne a Witneſs.

Edward Berne being Sworn, and Interrogated, How many Soldiers were laid upon himſelf by virtue of this Warrant? and, For what cauſe? and, What Contempt? and, What was the loſs? and, Whether the Soldiers were Armed?

He, in his ſeveral Anſwers, Depoſed, That there came to his Houſe Ten of my LordDeputy's own Foot-guard, and an Officer, in the County of *Wicklowe* in *Ireland*, in the *Bernes* Country, 12 Miles from *Dublin*; That it was the 17*th* or 18*th* of *October*, 1639, and they came on his Land, under colour of a Contempt, and there lay 15 days: In which time, they conſumed and devoured all his Goods and Chattels they found at that time: They Thraſht out three Ricks of Corn; one of *Wheat*, one of *Rye*, the other of *Oates*, which were very well worth 50 *l.* at the leaſt: After they had Thraſhed this Corn, and devoured the Victuals they found in the Houſe and about the Houſe, they ſent ſome of this Corn to a Market-Town within three Miles, called *Bray*, and that they ſold for *Tobacco*, *Aquavitæ*, ſome *Beer*, and Victuals for themſelves: And they would not be content with this, to ſatisfie themſelves on his Goods, but they muſt bring in the Women of the Town, and made the Women drink, and offerred to Raviſh them, but that ſome of the Town came in to Reſcue them: That after they had conſumed all his Goods they broke up his Tenants doors, killed their Geeſe, their Hens, and deſtroyed their Victuals; and when they had deſtroyed all his Tenants Goods, they come on the Town-people which were not his Tenants, and broke open their doors, and ſtruck them, and eat their Victuals, and killed their Geeſe and Hens; and after they came to his Tenant, one *Timothy Wells*, they came on his Land, and underſtanding he was his Tenant, they took away 40 Engliſh Sheep, and brought them to his Houſe, and there, that night, they killed two of them: That his Tenant underſtanding them to be there, referred himſelf to the Lord Chief Juſtice of *Ireland* then, and Petitioned, to this purpoſe, that is, my Lord *Dillon*, and Sir *Chriſtopher Wainsford*, that Mr. *Wells*, which was his Tenant, had an Order to take away his Sheep from the Soldiers: and then the Soldiers Reply'd, That ſince he had got an Order to take away his Sheep, they were ſorry they did not kill more of them: That they were not content to have Wood (which was for his the *Deponents* own fuell, and to deſtroy that) But they burnt his Partitions, his very Houſe-door, ſold his Trunck, his Bedſtead, his Dining-Table, and all they could light on

on in his houſe; that after this time, he was not able to keep houſe, but left his Wife and Children to the courteſie of his friends, and was fain to fly his Country, and to ſerve in the *Low Countrys* as a Soldier; that he may very well take it on his Oath, that this loſs was at leaſt 500 *l.* out of his way, for he was not able to ſow the Fallowes, and was fain to break up Houſe and Home, and was never able to keep Houſe ſince. *Article* 15.

That this was upon colour of a Contempt, upon a Petition preferred againſt him to my Lord Deputy, by Mr. *Thomas Archibald* for a pretended Debt of a matter of Ten pounds, and theſe Soldiers were armed with Swords, Muſquets, and Halbeards ſome of them.

Being Interrogated (on my Lord of *Strafford*'s motion) Whether he the Lord *Strafford* was then in *Ireland*?

He Anſwered, that before the Soldiers came on his Land, my Lord Deputy came to *England*.

But Mr *Palmer* obſerved, that the Warrant was from my Lord Deputy, and Mr. *Palmer* added, that all will refer to the time of the Warrant dormant. Mr. *Palmer*.

Being Asked, What Warrant was ſhewed for laying on theſe numbers of Foot?

He Anſwered, That he durſt not come in their ſight.

But Mr. *Maynard* obſerved, that this was one of the men *Savill* did lay Soldiers on, and therefore it behoved to be by that Warrant. Mr. *Maynard*.

Being asked, Whether the Debt might not have been compounded for 5 *l.* and why he would not rather pay 5 *l.* than ſuffer prejudice to 500 *l.*?

He Anſwered to Firſt, Yes. To the Second, that he conceived the Debt not lawfully due.

Mr. *Robert Kennedy* being Sworn and Interrogated, What he knew of the laying of Soldiers on the ſaid *Berne*, and the occaſion, and what they did. Mr. *Kennedy*.

He Anſwered, That one *Archibald* preferred a Petition againſt *Berne*, for a pretended Debt to my Lord Lieutenant, and (as his uſual courſe was) his Lordſhip would referr the matter to the two next Juſtices of Peace unintereſſed, and they to determine the matter by conſent, if they could; elſe to certify that the party bringing the Petition to him, the *Deponent* deſired him to draw the Warrant according to my Lord-Lieutenant's Order. They ſent a Warrant for *Berne*, who appearing, they examined the buſineſs, and it was ſo trivial, that he the *Deponent*, deſired them to compound it. *Berne* ſtood on it, that the Plaintiff ought to have none, and would pay him none. They certified my

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my Lord Lieutenant. After this Certificate, he (the *Deponent*) heard not of it, till he heard that Soldiers came to this Gentleman's Land, and hearing of it, and that ſome Tenants of his the *Deponents* were wronged by it; he came thither, and ſome of them he knew, and asking by what authority they were there? We come (ſay they) by Warrant of the Serjeant at Arms Mr *Pigott*, That the *Deponent* thereupon ſaid, Mr. *Pigott* hath no Warrant; Yes, ſay they, my Lord Lieutenant's, and he directed us not to leave, till *Berne* delivered his Body for a contempt.

That he the *Deponent* Anſwered, Though you have a Warrant for lying on his Land, you have no Warrant to deſtroy his Goods, for they were ſelling his Corn, and loaded the Horſes that went through the Town.

That there was to the number of 8 or 12 of my Lord's Guard, armed with Pikes, and Guns, and Swords. But my Lord of *Strafford* he thinks was not then in *Ireland*, he was newly gone.

Being asked (on my Lord of *Strafford*'s motion) Whether he ſaw the Warrant under *Pigott*'s Hand?

He Anſwered, He did not, but the Soldiers told him, *Pigott* laid them on the Land, by virtue of my Lord Deputy's Warrant.

Being Asked, How long *Pigott* had been a Serjeant?

He Anſwered, About Ten years.

And whether there was any more than two?

He Anſwered, No more that attended the State; and Mr. *Kenneday*, added, that he wondred at the courſe, for he never heard of any ſuch courſe before my Lord of *Strafford*'s time.

Mr. *Palmer*.

Mr. *Palmer* here obſerved, that they were my Lord Deputy's own Guard, which could not be but originally from him.

Mr. *Little* a Witneſs

Mr. *Robert Little*, my Lord of *Strafford*'s Secretary being Sworn, was interrogated ſeveral queſtions, *viz.*, Whether he had made out any Warrant by the Lord of *Strafford*'s Direction, and under his Hand and Seal to *Pigott*, or any elſe, for raiſing Soldiers after this manner.

He Anſwered, That he doth not know that *Pigott* hath any ſuch Warrant; nor doth he remember any ſuch Warrant paſſed the Office if it did, it was by Precedents of former times, but in good faith, he doth not remember it.

Whether he made any ſuch Warrant to *Pigott* to his knowledge?

Anſwered, That he never made any, or heard of any, nor knew of any.

Was one made to *Savill*?

Anſwer, He never made that to *Savill*, and he cannot tell whether there was one to *Savill*, or not?

Was there an Entry of any Warrant in his Book to that purpoſe?

Anſwer

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Anſwer, That he did not enter them at any time, nor did he ever ſee any ſuch Entry or Warrant.

Mr. Palmer.

Mr. *Palmer* inferred from hence, That he ſaid the ſame for *Savill* that he ſaid for *Pigott*, and yet how publick a thing this of *Savill*'s was their Lordſhips have heard, and it could not but come to his knowledge, at leaſt his ear.

And Mr. *Maynard* obſerved, he Swears that he never made any ſuch Warrant, but if any were made, it was according to former Precedents.

Lord Strafford.

But my Lord of *Strafford* Anſwered, That if any ſays he cannot tell, 'tis as much as he can ſay for another Man's act.

Lord Ranalagh.

Lord *Ranalaugh* being Interrogated, what he knew of this Warrant, of laying of Soldiers, upon whom? and how long?

His Lordſhip Anſwered, That he had heard ſomething of it heretofore, but more particularly in *November* laſt, when being at the Council-Board, a Petition was preferred to the then Lord-Deputy and Council, by one *Davis*, who dwelt in the County of *Clare*; and by his Petition he ſet forth, That notwithſtanding on a Reference from my Lord-Deputy to the Judges of Aſſizes, he had obtained a Report from him; yet by combination betwixt his Adverſary and the Serjeant, he had Soldiers laid on him, which made him leave his Dwelling: That he the (ſaid Lord *Ranalaugh*) asked the Party, How the Serjeants came to lay Soldiers? Yes ſaith he, My Lord-Deputy *Wansford* hath made a Warrant *dormant*, and taken a courſe for it from my Lord Lieutenant, and from himſelf, (as he the Lord *Ranalaugh* takes it) tho' poſitively he could ſay, that the Warrant *Dormant* was the general Cauſe.

Being Asked, Whether it had been uſed before, or if it be an Innovation?

He Anſwered, That he knew a Cuſtom hath been in *Ireland*, for laying Soldiers on the Relievers of Rebels, and for laying of Contribution-money, in caſe of Delinquency, or non-payment; Or where a return was made by the Sheriff, that the King's Rents did not come in, theſe Rents being applyed to the Payment of the Army. The courſe before my Lord of *Strafford*'s coming was, That Soldiers were laid to conſtrain ſuch, but in a civil cauſe between party and party, he never heard of it before in his life.

Being asked (on my Lord of *Strafford*'s motion) Whether (he the Lord *Ranalaugh* was not a Captain of the Army before the Lord of *Strafford* came, and whether he had not Commiſſion by Soldiers, to levy part of the money due to him, from the Deputy and Vice-Treaſurer?

He

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He Anſwered, That before my Lord-Deputy came into *Ireland*, the courſe was, as he formerly touched, that where their was arrear of Rents to the King, and theſe Rents did not come in to the *Exchequer*, then was aſſigned for the payment of the King's Soldiers, and the Acquittances delivered to the Captains; on part of their entertainment: And this Acquittance out of the *Exchequer* was given by a ſpecial Warrant from the Deputy, and according to that courſe, his (the Deputy's method) was with other Captains, and thus he levyed the Rent by his own Soldiers, by virtue of that Warrant.

Being Asked, When the Money was Aſſeſſed thus on Countrys, was it not by conſent of the Country?

He Anſwered, (That if he hath not forgotten) when the Gentlemen of *Ireland* were here 1628. they were ſuitors to the King for ſeveral Graces, and they obtained ſeveral of them from His Majeſty: among the reſt (if he hath not forgotten) that in caſe of non-payment of Rents or Contribution, Soldiers might go, and lie upon the Defaulters,

Mr. Palmer.

Mr. *Palmer* obſerved, that when he ſpeaks of Contribution or Rent, he ſpeaks not of this courſe, to compell to obedience on Paper-Petitions. And ſo (he ſaid) they would conclude with their Witneſſes, recitings, that their Lordſhips have heard the courſe taken, to ſecure that Power, my Lord of *Strafford* aſſumed to himſelf, in hearing of the Cauſes. That this Uſurpation on ordinary Courts of Juſtice, to whom it belongs, could not be ſecured without Arms in a Warlike manner, to compell obedience. Their Lordſhips have heard how it was executed, that if the proceeding had been legal, the proofs of Law had been according to the calm and quiet Rules of Juſtice, but being an incroached Power, it muſt be executed by force, and Arms, and War indeed (for ſo it is in ſubſtance) on the Subjects of *Ireland*. That this was in time of Peace, the troubles of *Ireland* being long ſince appeaſed, and the People reduced to the condition of Subjects, governed by ordinary Laws and Magiſtrates: and now to put an extraordinary Power in execution, to compell the ſubjects by Acts of Hoſtility, they conceive is within the Statute of 25 *Ed.* 3. *A levying of War againſt our Sovereign Lord the King within His Realm.* which is nominally Treaſon in that Statute, and ſhortly for this reaſon,

The King being inveſted with His Sovereign Power, whereby they are protected, but this Power being (inſtead of Protection) uſed by his Miniſters to the ſubverſion and deſtruction of His Subjects, doth on the matter, make an Invocation on the King himſelf, this being a bereaving the Subjects of the Law by which they ſhould live; diſpoſſeſſing them by force of Arms, in warlike manner, muſt be a war againſt himſelf, That Law is of force in *Ireland*, by 10 *H.* 7. whereby all the Laws made before that time, were made of force there.

And by a particular Statute made the 18 *H.* 6. this very offence of Seſſing Soldiers by Lords, or any others, or any the King's People without their conſent, is adjudged Treaſon, and the Offender is to be judged a Traytor.

The

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The *Statute* was read.

Statutes and *Ordinances* made in a Parliament, holden at *Dublin* 18 *H.* 6. *ch.* 3.

AN Act that no Lord or others, ſhall charge the King's Subjects with Horſe, Horſemen, or Footmen, without their good Will, and by ſo doing, the Offender is a Traytor.

IT is agreed and eſtabliſhed, that no Lord, or any other, of what condition ſoever he be, ſhall bring or lead from henceforth Hoblers, Kern, *or* Hooded men, *neither,* Engliſh *Rebels, nor* Iriſh *Enemies, nor any other people, nor Horſe to lie on Horſeback, or Foot to lie on the King's People, but on their one coſt, without conſent. And if any ſo do, he ſhall be adjudged as a Traytor.*

Mr. *Palmer* concluded that this hath been done, and how their Lordſhips have heard that this hath been done by Soldiers that profeſs hoſtility, brought from Garriſons, (the places of War) in great numbers, and indeed the number left indefinitely to the diſcretion of the Serjeant at Arms, in Warlike furniture, which is litterally true in the caſe: And ſo he concluded the Article, expecting My Lord of *Strafford*'s Defence. Mr. *Palmer.*

My Lord of *Strafford* deſired their Lordſhips would be pleaſed, to give him liberty to look over his Notes, and he doubted not but to give their Lordſhips a very clear ſatisfaction, by the help of Almighty God, E. of *Strafford*

After a little reſpite; his Lordſhip began his Defence in ſubſtance as followeth. And Firſt,

Defence.

He deſired their Lordſhips would pleaſe to remember, that if he proved not all things ſo clearly and fully, the reaſon was obvious and plain, the ſhortneſs of his time, the Witneſſes being to be fetched out of *Ireland*, and he having none but ſuch as come accidentally.

That the other day he read to their Lordſhips, out of Sir *Edward Cook*'s Book, that the Cuſtoms of *Ireland* are in many things different from the Cuſtoms of *England*: That for the things done in *Ireland*, he conceived he was to be judged by the Laws and Cuſtoms of *Ireland*, and not by the Laws and Cuſtoms of this Kingdom; and that his Commiſſion was to execute the place of Deputy, according to the Laws and Cuſtoms of that Kingdom.

That what hath been opened to their Lordſhips to be ſo extraordinary, he muſt juſtifie as very ordinary, frequent, and uſually exerciſed by the Cuſtoms of that Kingdom: That in all times the Army of *Ireland*, and the Officers and Soldiers of it, have been the chief hands in executing all the Juſtice of the Kingdom, and of bringing the due obedience to the King's authority, that's neceſſary, and fit, and due.

That if they had not been ſo uſed, he thinks (thoſe who know the State of *Ireland* will acknowledge) the King's Writs had never run in *Ireland*, they being all executed by their Power and Aſſiſtance.

Firſt, his Lordſhip undertook to make it appear, that (in caſe of bringing in Rebels and Offendors of that nature, and forcing them to come

Article 15. in) it had been the ordinary practice of the Deputy and Council, before his time, to Aſſeſs Soldiers, not only on the party, but the kindred of the parties, till the party be brought in, and yet it is no levying of War for all that.

And becauſe his Lordſhip heard much ſpeaking of Rebels and Traitors, he deſired to repreſent to their Lordſhips, what they be (*viz.*) a company of petit looſe fellows that would be here apprehended by a Conſtable

Lord *Dillon* Lord *Robert Dillon* was called for, and my Lord of *Strafford* deſired he might be asked, Whether it had not been the practice of the Deputy and Council, to Aſſeſs Soldiers, not only on the perſons, but the Septs and whole kindred of Rebels?

Mr *Palmer* Here Mr. *Palmer* interpoſed, That for ſaving of time, if my Lord makes this the Caſe, that Soldiers have been laid upon the Septs of Traytors or Rebels, that lie out in Woods, and eſloigne themſelves from the King's protection, whom they call Kernes, Outlaws, and Rebels; they (the Committe) will admit the uſage, though it will not Juſtifie the Caſe, being expreſly againſt Law; for by a *Stat.* 22 *Eliz. If any lie out as Traytors, or Rebels, five of the Sept that bears the Surname, ſhall be Fined at the Council-Chamber, but not have Soldiers laid on them*; and againſt a *Statute* there can be no Uſuage,

E. of *Strafford.* To which my Lord of *Strafford* anſwered, And theſe are but ordinary fellows: And he deſired their Lordſhips would clearly underſtand what is meant by Rebels, for every petty fellow ſtealing Sheep, and the like, if the party be out in action, they commonly term ſuch Rebels.

Robert Lord *Dillon* being asked, Whether ordinary fellows in *Ireland*, paſſed not under the name of Rebels?

Lord *Dillon.* His Lordſhip Anſwered, That touching this point he hath obſerved, that when a party hath committed ſome Felony, or unjuſtifiable Act, and withdraws himſelf into the Woods, a Proclamation is made, for his coming in by ſuch a time, or render himſelf amenable to the Law; and if he then comes not in, but keeps out, in common reputation he is accounted a Traytor or Rebel.

Tyrringham. Sir *Arthur Tyrrinham* being asked, Whether of his knowledge the Deputies and Council have not frequently Seſſed Soldiers on Offenders and Rebels, when they could not be brought forth to Juſtice, and what is underſtood by a Rebel in *Ireland.*

He Anſwered, That it hath been the ordinary practice ever ſince he knew that Kingdom, ſince my Lord of *Faulkland*'s being Deputy there, and hath been ever practiſed there, both by him, and the Juſtices that came after him: That ordinary fellows be commonly reputed Rebels, with this obſervation, It is true, That every Man is not a Rebel, at his firſt going out, though he be called ſo; but the courſe is firſt to Proclaim them, and if they

they be not ameneable to Law, they be Rebels, and ſo they may be for Felonies of a very ſmall value. *Article* 15.

To prove that moſt of the King's Rents, as well *Exchequer* Rents, as Compoſition Rents, have been levied by Soldiers in all the times of my Lord of *Cork*.

My Lord *Strafford* deſired.

John Conley might be called for; who being examined, how long ſince he hath been in *Ireland*: And whether in his time, the Rents were not collected by the Soldiers and Officers of the Army?

He Anſwered to the Firſt, 15 years. To the Second, That he remembers it very well, that in my Lord *Faulkland*'s time, it was an ordinary courſe, where the King's Rents were due, to ſend home Horſe and Horſemen, and take up theſe Rents, and lie on them till they were collected and taken up. So in my Lord *Grandiſon*'s time, and in all *Chicheſter*'s time; and this is all he can ſay. *Conley*, a Witneſs.

Henry Dillon was called, And Firſt my Lord of *Strafford* deſired liberty to defend the Credit of his Witneſs, as to ſome exceptions taken to him the other day, and offered the occaſion of the Order of Council-Board made againſt him, to be only this; That he ſaid, he heard ſome ſuch thing ſaid, and thereupon was Commanded to make an acknowledgement, and to this he was invited and perſwaded by my Lord *Dillon*, for quietneſs ſake, rather than he ſhould be troubled abuot ſo ſmall a matter, and that being granted, he ſuppoſed the Gentleman ſtood upright, and was a competent Witneſs in this or any other cauſe. To which ſome of the Committee for the Commons anſwered, That they except not againſt the hearing of him, but offer to their Lordſhips memory his acknowledgement, that he ſpeak falſly, as a weakening of his memory. And then, *Henry Dillon*.

Henry Dillon being asked, Whether he knew not that the *Exchequer* and *Compoſition* Rents, upon failing of payment, have been levied by the Army, on the appointment of the Deputy, or chief Governor?

He Anſwered, That he had known ſeveral Acquittances put into the hands of Sir *Thomas Dutton*, for Rents due on certain parcels of Land in the County of *Longford*, that were not paid into the *Exchequer* by a certain time, for which a-fore-time, Purſivants iſſued out againſt the Tenants; that himſelf was one of the Tenants, and being out of Town, Sir *Thomas Dillon* ſeized three of his Horſes, at his the ſaid *Dillon*'s Houſe, and there they remained till he came to Town for 13*s* 4*d*.

This being in the time of my Lord of *Corke* and my Lord of *Ely* Being Juſtices.

Being asked, as to the Contribution and Compoſition-Rents?

He Anſwered, That ſome years before that, in my Lord *Faulkland*'s time when he lived in the County of *Longford*, that were not paid, he remembers 30000 *l*. was granted on the coming of Sir *John B*——into the Kingdom of *Ireland*, and afterwards, Six-

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ſcore thouſand pound toward maintaining of the King's Army, and there was a Troop of Horſe of Sir *Robert* —— ſent into the County of ——But he knows not whether this be the Money called Contribution-Money; That he was then Sheriff of that County, and had direction ſent to Seſs the Souldiers on them that refuſed to pay the Money. That at that time he conceived that was not ſo fully underſtood by the Country, that they ſhould have paid it, and himſelf and others did except againſt it; conceiving the Money was not granted farther, than as they would willingly pay. and *Valerian* —— on the *Statute* urged, of aſſeſſing Soldiers, refuſed to Aſſeſs Soldiers on the Warrant of my Lord of *Faulkland*; and thereon was ſent for to the Caſtle, the Soldiers ſent to his Houſe and remained there, as long as he had Proviſion; and after that, from his Houſe they were aſſeſſed on ſeveral Delinquents, as the Soldiers pleaſed to Billet themſelves; and the Foot-Company of Sir *Arthur Tyrringham* was then in that County. And one night he remembers, 25 were aſſeſſed on his own Houſe, becauſe he did not pay the Money: but he remembers not any thing of the Compoſition-Rents.

Being asked whether he had not ſeen a Warrant to this purpoſe, ſubſcribed by the Chief Governor?

He Anſwered, That being Sheriff of the County of *Longford* in 1634. or 1633. there were Warrants directed from my Lord of *Cork*, and my Lord *Chancellor*, and he thinks under the hands of the reſt of the Lords of the Board, for levying Moneys allotted to the Soldiers, and he had three Warrants himſelf, and by virtue thereof levyed Money, and paid the Money to the Troops there, under the hands of my Lord of *Cork*, and Lord of *Ely*, and the Council.

Tyrringham.

Sir *Arthur Tyrringham* being Asked, Whether he had not received Order, with a Warrant, for attaching a Perſon in caſe of Debt, and for laying Soldiers on him in caſe he paid it not, and who was the Perſon?

He Anſwered, That he had; And the Sheriff of the County brought the Warrant from my Lord of *Faulkland*, to lay ſome of his Men on a Debtor there, till he paid the Debt; That theſe Soldiers were laid, being under his Command, and ſtayed till the Debt was paid, at the Charge of the party; and he tells this particular in it, that makes him remember the whole circumſtance: The Debt was very ſmall, not above 16 or 20 *s.* The Sheriff bringing him this Warrant, he did not a little wonder at the matter, to require Sodliers for levying ſuch a ſum. But it was then ſo ordinary and frequent, That it was ſeldom denied on any reaſonably occaſion: The Men ſtayed there ſome 8 or 10 days, when the party had enough, he ſends to him the ſaid *Arthur*, to recall the Men; that he told him he would, if he the ſaid party had ſatisfied the Money; the party anſwered, he had not yet, but he would; that he the ſaid Sir *Arthur* told him, what a ſtrange Man are you, that will keep a Charge on your

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your ſelf? where, if you had paid it the firſt hour, I would have withdrawn the Men.

Why, ſays he? I do not care for giving half a ſcore Men a Meales Meat.

Being Asked (on Mr. *Palmer*'s motion) Whether it was a Debt between party and party, or the King's Debt?

He Anſwered, He could not tell: But, the Sheriffs name was *Fleming*.

Being Asked, Under whoſe hand was the *Warrant*?

He Anſwered, Under my Lord of *Faulkland*'s Hand, otherwiſe he would have levyed no Money

Rainalaugh.

Lord *Rainalaugh* being Asked, Whether before my Lord of *Strafford*'s coming into *Ireland*, the King's Debts and Rents, as well Exchequer as Compoſition-Money, were not raiſed by Aſſeſſing of Soldiers?

He Anſwered, That he remembers in the Lord Juſtices time, my Lord of *Corke*, and Lord of *Ely* (the King's Rents being ſlowly paid in) they did uſually give Acquittances out of the *Exchequer*, to the Captains and Officers of the ſeveral Companies; and, if they were not paid by ſome time limitted, and if the Sheriffs, or the Collector, did not bring in the Money, the laſt reſort was to fall on the Defaulters, by aſſeſſing Soldiers on them, and there to lie till the Money was paid.

Here my Lord of *Strafford*, conceiving he had ſpoken of Contribution and Compoſition-Rents deſired my Lord *Rainalaugh* might Repeat what he ſaid.

Thereupon his Lordſhip Anſwered, That he thought what he ſaid he was ſure of, and might juſtly ſay; That for the Exchequer-Rents, and Contribution Payments (for the Compoſitions he would ſay nothing) the courſe was this. That for the Exchequer-Rents, the Vice-Treaſurer gave out his Acquittances, Theſe were aſſigned to ſome Captains, whoſe turn it was for Payment, and they, accompanied with a Warrant from the Deputies, to conſtrain the payment by ſome few Soldiers.

Strafford.

Hereupon my Lord of *Strafford* Obſerved; that this Cauſe would ſeem ſtrange in *England*.

Palmer.

And whereas my Lord *Rainalaugh* ſpeak of Contribution-Money, Mr. *Palmer* humbly deſired, he might be Asked, Whether the raiſing of it by Soldiers, was not ſo agreed to in the Country? For my Lord of *Strafford*'s own Anſwer ſays, The Countrey chooſe rather, that on Delinquency it ſhould be ſo levyed than otherwiſe; And, if it be by conſent, the force of the Statute is taken away.

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My Lord *Rainalagh* being asked accordingly?

His Lordſhip Anſwered, That he had already ſpoken to that purpoſe, and he believed, ſome of the Committee that were there had the particular Inſtance to produce.

Being required to name them in whoſe hands it was;
His Lordſhip ſaid, In Mr. *Plunkets*, or Mr. *Brown*.

Being Asked, When this courſe began?
He Anſwered, He did not remember the time; but, he thought, in 1628. on certain of the Agents out of *England*.

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My Lord of *Strafford* did here offer, That if he might have Read the Antient Book in my Lord *Faulkland*'s time, he could have ſhowed Sir *Tho. Wayneman* ſent up and down, to this and that County, to fetch in the Compoſition-Rents, and that they have been thus levyed.

His Lordſhip added, That the next Point he ſhould have endeavoured to prove, was, That the Gentry that granted the Six ſcore thouſand Pounds for ſupply of the Army in my Lord *Faulkland*'s time, agreed, That the ſame ſhould not be brought into the King's Exchequer, but be levyed by Soldiers: nor be mentioned in any Accompt of the King's leaſt it ſhould be mentioned to their prejudice: But, let the Gentlemen that manages the Evidence, labour to prove this.

And Mr. *Palmer* declared again, That they agreed to it.

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Whence my Lord of *Strafford* obſerved, That it concerned him both to make good the truth of his Anſwer, and to tell their Lordſhips, how narrowly he is moved to look to himſelf; for, though they now agree it to be done by the Agents, and practiſed by them, yet the firſt part of this Killing Charge is, That he ſhould Traiterouſly and Wickedly deviſe, to ſubdue the Subjects of that Realm, by levying Money on them.

But Mr. *Palmer* explained himſelf; That they did admit the Contribution to be levyed by the Agreement of the Agents, and by conſent, but they intend not to admit, that they did extend to a Practice by his Predeceſſors, for that it was formerly done, they did in no ſort admit.

And Mr. *Pym* added, That they do not Charge him with levying the Contribution-Money, but with levying Money after the Contribution, was paid, which was more than the Contribution, but that is not in iſſue.

So my Lord of *Strafford* concluded that Point; That the Contribution, for eight years before his coming, was levyed by Soldiers, is admitted; So that for all the things concerning that Contribution, he did no more than was agreeable to the Agents themſelves.

His Lordſhip then deſired, That the Second Article of my Lord of *Faulkland*'s Inſtructions might be Read, by which he was expreſly appointed to lay Soldiers on ſuch, as paid not their Rent to the King

And it was Read.

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ARTICLE II.

FOr the Collection of our Rents, in Caſes of Default; That Firſt *a Summoning Proceſs ſhall iſſue:* Secondly, *The Purſivant ſent: And* Laſtly, *if this be not ſufficient (in caſe the ſame be not levyed) then our Vice-Treaſurer, by Warrant of our Deputy and Council, ſhall appoint a competent number of Soldiers of the next Ayding, and Garriſon, to collect the Rents of the Charge of the Parties conplained of; having care, that no man be burdened with a greater number of Soldiers, than the Service ſhall neceſſarily require.*

Mr. *Palmer* deſiring, That the firſt *Article* of theſe Inſtructions might be Read, it was read accordingly. Mr. *Palmer.*

AT the humble Requeſt of our Subjects, We are graciouſly pleas'd to direct, for the better preſervation and eaſe of our Subjects, the Soldiers ſhall be called in, &c.

My Lord of *Strafford* from his Proofs inferred, That he hath made it clearly appear, That, notwithſtanding the Statute cited, it had been the frequent uſe and cuſtom of *Ireland*, to aſſeſs Soldiers on *Septs* of Offenders, for the levying of Exchequer-rents, levying Debts, as appears in one particular Caſe which is left in *Dublin*, for the levying of the Compoſition-Rents by Troops of Horſe and Horſemen; and for the Contribution, that State gives no difference, betwixt Seſſing for the King's Rents. and for contempts and diſobedience to Juſtice, and certainly it would be High-Treaſon: For, if the Deputy had power to aſſeſs the Soldiers, without being guilty in the former Caſe, certainly his aſſeſſing of Soldiers on Contemners, to bring them to be ameneable to the King's Juſtice, cannot be by any conſtruction made Treaſon in him: So that though it comes not to the particular *individuum*, yet it comes thus far, that ſeſſing of the Soldiers is a Power that was in the Deputies of *Ireland*, and ſo he truſts was by the Law of that Land, without making them Traytors. E. of *Strafford.*

His Lordſhip did further alleadge, That when he came into *Ireland*, he found that none of the King's Rents were levyed in other manner; Paper-Attachments being given unto the Captains, and they, on theſe aſſignments levying the Money for their Entertainments: That he was willing to remedy this, being not much in love with the courſe; and, ſince his time, it was never practiſed, the Rents being brought in before it comes to that; though if they had not been paid ſooner, it muſt have come to that: And therefore he deſired he might ſhow them a Proclamation, Iſſued within three months after he came into *Ireland*, to ſhow, that he brought not the cuſtom with him, but found it there.

Which *Proclamation* was Read, being Dated *27th December*, 1633. And Imported.

THat whereas the Surpluſage of his Majeſty's Revenue is appointed to be applyed towards the Payment of the Army, thereby to give the Country more eaſe, &c.

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To which *Proclamation* divers of the Counſellors Names were added, and were now Read.

So that if Seſſing of Soldiers, in any caſe, be Treaſon certainly it is in this, *Poſito*, That if the Law be good, it equally goes to both

And ſo he conceives he hath ſhewed the uſe that hath been, and muſt be of the Officers of the Army, being the moſt ready way to procure obedience to the King's Courts,

His Lordſhip obſerved, That the Gentlemen at the Bar waved part of his Charge, though there was a Book in Print, wherein he appears to be charged in a Trayterous manner, to ſubdue, *&c.*

He waves the *Article.*

And though they decline it, he beſought their Lordſhips he might give an Account of this particular, leaſt it ſhould ſtick with their Lordſhips, when they read the *Article*, and find no Anſwer to it.

But the Committee oppoſed it, as conceiving it not fit he ſhould Anſwer to an *Article* to which he was not preſſed (ſpecially ſince they have not wholly laid it aſide) and that he had notice yeſterday, that they intended not, for the preſent, to proceed upon it; which my Lord of *Strafford* confeſſed, and gave thanks to the Houſe of Commons for it.

His Lordſhip then proceeded in his Defence, ſetting forth to their Lordſhips, That the firſt Inſtruction to my Lord of *Faulkland* is no limitation to him, it being not good, as to him, unleſs it were given him, which he mentions only by the way.

For the Warrants charged to be by him Iſſued, and the Execution of them, His Lordſhip deſires to free himſelf from the Teſtimony given by Mr. *Berne* and Mr. *Kennedy*, concerning a very foul miſdemeanour committed by ſome Soldiers, under pretence of coming to ſee the King's Writ executed, and his Juſtice complyed withal, before he comes to that, that concerns Mr. *Savill.*

I. It appears, theſe Soldiers were laid when he was not in *Ireland*; ſo that he is not anſwerable to any thing Depoſed by theſe Gentlemen, further than that he gave a Warrant for it to Mr. *Pigott.*

II. He denies that ever *Pigott* had any ſuch Warrant from him, nor is any Proof to that purpoſe offered: Therefore it is not to be laid to his Accompt

III. Only *Patrick Clear* (ſays *Pigott*) threatned to lay Soldiers on ſome if they would not obey: But, becauſe he threatned, therefore he had ſuch a Warrant, is (under favour) no conſequence; Men commonly threaten moſt, when they have leaſt to ſhew.

IV. Mr. *Kenneday* ſays directly, *Pigott* had done what he did by direction; but, in expreſs terms, he ſays, he never ſaw the Warrant.

Then there remained only Mr. *Savill*'s Warrant.

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This Warrant is not ſhowed, nor comes it in Judgment againſt him: and though ſome Teſtimonies are given, that they have ſeen ſuch a Warrant, for Aſſeſſing Soldiers, *&c.* yet he conceives it very hard, That the Warrant ſhould be the ground of convincing him of Treaſon, and yet the Warrant not to be ſhown, for what the Grounds are, and what the Limitations may be do not appear: And, if their were ſuch a Warrant, it is long ſince it paſſed from him; But, it is not ſhown; and therefore to convince him in *modo & formâ* is very hard to be done; for what may be in it to qualifie, or what amiſs, no body knows. But, to the Proofs, his Lordſhip obſerved, That the Proofs are very ſcant; This great Mighty War made on the King and his People, in breach of the Statute cited, is one of the Pooreſt Wars that ever was made in *Chriſtendom*; for, laſt Summer, one ſays, he knew Soldiers laid on one Man.

The Serjeant ſays, He never laid above 6, ſometimes 2, ſometimes 3; and that this ſhould be heightned to the making of a War againſt the King and his People, ſeems to be a very great ſtrain put upon it, and more he hopes then the matter will bear,

That it was never complained of to him, all the while he was in *Ireland*, in reſpect of any manner of prejudice ſuſtained by it.

That if there be ſuch a Warrant, he is glad it hath been ſo moderately Executed, That no worſe conſequence hath come of it, than their Lordſhips have heard.

But, he ſhall make it appear, that the Sejeant at Arms is a publick Officer; and, what Warrant ſoever he he hath from him, it is not in relation to him, but to the execution and procuring obedience to all other the King's Courts of Juſtice, as well as thoſe of the Deputy's Juriſdiction; and, it was only to enable him the better to ſecure the King's Right: And he deſired, that *Nicholas Ardah* be examined, Whether he be not an Officer of the Exchequer in *Ireland*, and Whether he knows of any particular Seſſing of of Soldiers by the Serjeant at Arms, before my Lord of *Strafford*'s Government? And being Askt ſeverally theſe Queſtions;

Ardah a Witneſs.

He Anſwered, To the firſt; that he hath no Imployment in the Exchequer, and was imployed in a Commiſſion of Church-bounds.

And, that about the Second Year of His Majeſty's Reign, there was one *Tho. Fitzgerard* High Sheriff of a County, that had not perfected his Accompts, and not appeared to the Purſivant; The Lord Chancellor that now is, deſired the reſt to aſſiſt him to move my Lord of *Faulkland* to lay Horſe on him; And that the Party was brought in within a ſhort time after; but, whether by Soldiers, he knows not; but he heard there was a Warrant.

Savill a Witneſs.

Mr. *Savill* being Asked, Whether the Warrant to him granted was not agreeable to former Precedents.

He Anſwered, That he never ſaw any other Warrant of the ſame Nature: but, he hath heard by him that was his Predeceſſor (now a Captain of the Army) that he had received a Warrant from my Lord of *Faulkland*, to Seſs Soldiers on the Land of *Tho. Fitzgerard*, who had refuſed to come to paſs Accompts,

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Lord *Dillon* a Witneſs.

Mr. *Henry Dillon* being Asked, Whether he knew of any ſuch Warrant formerly granted? And what Relation the Serjeant at Arms hath to other Courts?

He Anſwered, That he conceives, the Serjeant at Arms is an Officer, as well to the Court of *Exchequer*, as to the *Chancery*, on the laſt Proceſs of Contempt. The laſt Proceſs is a *Writ* to the Serjeant, to Attach a Man, whether betwixt party and party, or concerning the King; and that he had ſpoken with *Thimbleby*, Serjeant at Arms, whether he did ſo in his own right, or as Deputy? And Asking him, What he would do if the Warrant was diſobey'd? and he pretended he would Aſſeſs Soldiers; and being a Scholar at ——— 23 years, he heard one had Soldiers ſeſſed on him for diſobedience to the Serjeant at Arms; but, what the particular was he doth not know.

E. of *Strafford.*

Here Mr. *Palmer* ſpeaking ſome words, which my Lord of *Strafford* interpreted an Interruption; his Lordſhip deſired, That no haſty words might be miſinterpreted, he being for his Life and Children; and added, The Gentlemen will do well not to put him out of his way, but let him ſpeak the poor few things he can for himſelf, and then leave them to their Lordſhips wiſdom. And then proceeded.

So he ſuppoſed there could be no ſuch ſevere conſtruction put upon this Warrant, that it ſhould be adjudged a levying of a War againſt the King and his People, when it appears to be the uſing of half a dozen, ſometimes two or three Soldiers to lie on refractory perſons, and bring them to be conformable to Juſtice; that the King's Law might be obeyed, without any Treaſonable or corrupt intention whatſoever: And, he hopes their Lordſhips will have a more favourable and compaſſionate conſideration, than to Judge him a Traytor for ſuch a piece of buſineſs, accompanied with all theſe Circumſtances.

But he added, That ſome ways he is more qualified than an ordinary perſon, by reaſon he had the honour to be His Majeſty's Deputy; and, by His Commiſſion, had power to purſue Rebels, and to uſe the King's Army for puniſhing of Rebels, or ſecuring the Publick Peace of the Realm, as in his diſcretion he ſhould think fit; and, that he conceives, a Warrant, though there had been no Preſident in the Caſe (but with theſe accompany'd) cannot be laid on him as a Crime. For this, he refers himſelf to his Commiſſion, which had been formerly read, and therefore truſts this will not fall into their Lordſhips Judgment as a High Treaſon, he being to govern according to the Cuſtoms of the Realm: There is a Statute 10 *H.* 7. *cap.* 17. whereby it was Ordained, Enacted, and Eſtabliſhed by Authority of that Parliament, That from that time forwards there be no Peace nor War undertaken in the Land without the Deputy's Licence; but, all ſuch War and Peace to be made by the Lieutenants, for the time being; And this comes in time, after the Statute of 18 *H.* 6. This was never complayn'd of as a fault, and no ill conſequence followed on it. If a Man ſhall enter by force, and wrongfully keep away poſſeſſion, that may be as well ſaid to be a levying of War as this; and yet a forcible Entry is familiarly puniſh'd in the *Star-Chamber*, but not ſpoken of as a Treaſon.

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As to the *Statute* in *Ireland*, of 18 *H.* 6. *cap.* 3. *An Act, That no Lord, or other, ſhall Charge the King's Subjects*, &c.

HE Conceives, he cannot be brought within compaſs of this Statute: For,

I. He hath heard it ſaid, That the King cannot be concluded in any *Statute*, unleſs he be particularly named, and conſequently not his Chief Governor: For, theſe words, *No Lord, or any other, of what condition ſoever*, &c. Muſt imply, a condition of a Lord, or one under a Lord, not a condition above a Lord, as the Chief Governor is.

II. He ſhall not lead, or bring. He hath neither brought, nor lead them into Action; for the Serjeant at Arms hath done it, though under his Warrant.

III. It ſpeaks of bringing Engliſh Rebels, or Iriſh Enemies, or Hooded Men, Hoblers, Kernes, *&c.* But, that ſending of the King's Soldiers to apprehend and attach ſuch Refractory Perſons ſhould be within the Statute, is a Stretching of the words of it very far.

IV. Notwithſtanding this Law, the Chief Governor hath always uſed to aſſeſs Soldiers (and Practice is the beſt Interpreter of Laws) and yet his acts have not, by this Statute, been concluded Treaſon; ſince they have Compounded for it, and they pay a great Rent; The Compoſition-Rents paid for their diſcharge from the aſſeſſing of the Army, being one of the greateſt Revenues before his coming there.

And if their Lordſhips will have it proved, there be few of the Iriſh but know it; And, in *Conaught* the King may take, or leave as he pleaſes.

Though he ſhall not inſiſt on it (as deſiring never to depart from their Lordſhips Judgment, nor thinking himſelf more ſafe in any other; therefore freely and voluntarily he puts himſelf under their Lordſhips Cenſure, for his Life, as for his Death: But, if he ſhould inſiſt on it, admitting all this, That it was a Treaſon by the Statute-Law of *Ireland*, yet he is not Tryable for it here. But, he makes no uſe of it to that purpoſe; but, had he a Thouſand lives, he would humbly lay them every one at their Lordſhips feet.

He added, That it is a very heavy Caſe, that ſuch old Laws as theſe ſhould be ſtarted, in this manner, when the Practice hath been quite contrary; and Kindled, to deſtroy him and his Poſterity at a Blow. But, he truſts, God Almighty hath provided better for him, by their Lordſhips Favour and Juſtice: For, though the Gentlemen at the Bar are much more Learned than himſelf; yet, it may be, they are not ſo well Read in the Iriſh-Statutes, as they be in the Engliſh: Beſides, he is moſt confident, he ſhall make it appear that Statute is Repealed.

And, if it falls in his Judgment, their Lordſhips (he hopes) will find, he had Reaſon to think, what he ſhall offer, might be available; and, that their Lordſhips will not be offended if he miſtakes the Law; and this, as in other things, he deſires the Advantage of by Counſel, concerning theſe Points of Law, before he be finally concluded.

Article 15.

First, By the *Statute* of 8 *Ed.* 4. *ca.* 1. (and, had theſe Gentlemen ſeen theſe *Statutes*, he believes they would never put it in Charge againſt him.) Whereby it is Enacted, Confirmed, and Ratified, by Authority of the ſaid Parliament, that the ſaid Statute be Adjudged and Approved in force and ſtrength; and the ſaid Statute may be of force in this Land from the *6th* day of *March* next; and that from henceforth the ſaid Act, and all Statutes and Acts, made by Authority of Parliament, within the Kingdom of *England*, be Adjudged and Ratified from the ſaid *6th.* day of *March.*

This comes in time, after the Statute of Treaſon of *H.* 6. and Ratifying all the former Statutes of *England*, Ratified the 25*th.* of *E.* 3. in *England*, which is the Statute of Treaſon: and, 1 *H.* 4. which ſays, nothing ſhall be Treaſon, but what is ſaid to be Treaſon within the ſaid Statute of 25 *E.* 3.

So that nothing can be Treaſon in *Ireland*, but what is Treaſon by 24 *E.*3 or 1 *H.* 4. or ſomething ſubſequent, for theſe being confirmed later, do take away the Statute of 18 *H.* 6.

Secondly, by the Statute of 10 *H.* 7. *c.* 22. and this is a Repeal in Judgments, far better then his own. The former was for another purpoſe. By this, all the Statutes made in *England* before that time, are brought to be Laws within *Ireland*; and, all Laws contrary to theſe Laws are hereby repealed. But, the Law urged by thoſe Gentlemen is againſt the Laws of 25 *Ed.* 3. and 1 *H.* 4. and conſequently is repealed very clearly; and the words are theſe in effect; It tells of the Benefit and Advantage that might come to them, after the Engliſh Laws ſhould be brought in; And, if any Statute have been made contrary to them, the ſame to be annulled, void, and of none effect.

And, that it hath been ſo taken and conceived, that that Law is Repealed, he hath, as he conceives, a Judgment in Parliament clearly on his ſide to clear him, as to this Treaſon, That the Deputy hath power to Aſſeſs Soldiers, in Caſes where he ſhall think convenient.

It is a Power, which (God forbid) any Man ſhould exerciſe, but with all fair Intention, and Mildneſs that poſſibly can be; and he ſpeaks it, not to draw any inconvenience on that Kingdom (he being willing to ſpend his Life for them, rather than do them any hurt) nor will he carry from this Bar the Remembrance of any thing of their Unkindneſs, in Proſecution (he means not them that are Members of this Houſe:) *præter gratuitas Cicatrices*, and will never look the worſe on them he Vows to God.

The *Statute* is 11 *Eliz. ca.* 7. *Being an Act for taking away Captainſhip, and all Exactions belonging thereunto from the Lords and Great Men.*

WHereas, Moſt Gracious Soveraign Lady, The Lords and Chieftains of this Realm, in the time of deſolation of Juſtice, have arrogated to themſelves Abſolute and Regal Authority, &c. *For Remedy whereof, your Faithful Subjects moſt humbly beſeech it may be Enacted,* &c. *That no Earl, Viſcount, Baron, Lord* &c. *dwelling within this Realm, ſhall aſſume,* &c. *the Name of Captain of any Country, except ſuch as hath, or ſhall have the ſame by Letters-Patents from Your Majeſty,* &c. *or by the name of Captain, or otherwiſe*

therewiſe exact for the finding of him, orthem, their Horſe, Foot of or upon any of your Majeſty's Subjects, Tax, Seſs, Subſidy, &c. *nor ſhall call togea ther people of the ſame Country to Treat, Conclude, and Agree for making War or Peace, Seſs,* &c. *nor lead the people,* &c. *without the Great Seal, or Warrant from the Lord Deputy,* &c. *upon pain to every Earl, Viſcount, Baron, or Lord,* &c. *for every time* 100 *l. of lawful Money of* Ireland. *Article 15.*

Whence he inferred, that here is a Commiſſion, that the Deputy and chief Governors have power to Aſſeſs, and yet are no Traytors; a penalty which they would have ſpread, had they thought that Law to have been in force.

So that as he hath been free in his heart from any Treaſonable deſign towards His Majeſty or His People, and as he hath been innocent to God Almighty within doors, ſo from this Statute he ſhall ſtand Clear abroad, and this cannot be brought as to this Caſe, to convince him of Treaſon.

And his Lordſhip did recall one thing in the Lord *Dillon*'s teſtimony, (which he had formerly omitted) That the Aſſeſſing of Soldiers was on Men being in Rebellion for any unjuſtifyable Act.

And ſo his Lordſhip conceived, there remains no more for him to do at this time, but to Anſwer that objection.

That this proceeding of his, was Treaſon, by 25 *Edw.* 3. though he had thought Treaſon had been like Felony in this reſpect; That there muſt be a felonious intent to make Felony, and ſo to make Treaſon, there muſt be a Treaſonable intent. And he ſaid (God knows) he had no Treaſonable intent in all this, for if he had a mind to have raiſed War againſt the King and his People, ſurely he ſhould never have done it by laying two or three Soldiers on a private Man, and then taking them off again; And is this that levying of War againſt the King and his People, that is meant in the *Iriſh Statute* of 25 *Ed.* 3?

The words of which Statute his Lordſhip read, *viz.*

If any man levy War againſt the King in His Realm, or adhere to His enemies, &c.

He appeals to their Lordſhips, deſiring them to lay it to themſelves, and tell them whether 2 or 3 poor Soldiers ſent in this manner to bring in a man, that will not be lyable to the King's Juſtice, could by any conſtruction, be brought to be a War levyed againſt the King and his People? which, ſaid he, if it be an error, he knew it was no Treaſon, for he had thought it had been for the Honour and Authority, and Juſtice of the King, and not done as an Enemy to him.

And therefore all laid together, though he muſt needs ſay, Men are dark towards themſelves, and towards their own Caſes, and leſs able to judge, then in the Caſe of other men; in truth, under favour, with all Humility, and ſubmiſſion to their Lordſhips better judgments, he cannot believe nor fear, but for any thing proved this day againſt him, as he is clear in his heart from all Treaſons, and Treaſonable Intention towards the King and His People; ſo he ſtands clear from Treaſon upon this Charge, not only in reſpect of the *Iriſh Statute*, but likewiſe the *Engliſh Statute*; and he ſhall beſeech their Lordſhips, when it comes to its time, they will give his Council leave to urge theſe things for him, who he is ſure will be able to do it with far greater reaſon and ſtrength than himſelf, it being out of his profeſſion.

His

Article 15. His Lordſhip took notice, that there was another part of the Charge which he deſired to ſpeak to: but Mr. *Palmer* ſaid, That was ſubſequent, and not yet come to.

To which his Lordſhip Anſwered, That he ſhould do all things without offence, only ſo long as he doth mannerly move any thing for his clearing, he hopes he may do it.

And ſo the Defence was concluded.

And then Mr. *Palmer* replyed in ſubſtance as followeth.

Mr. Palmer. That their Lordſhips have heard a very long Defence, made by my Lord of *Strafford*, and that he would not apply himſelf to enforce any thing by circumſtances, but to repreſent the truth, and to avoid thoſe things offered by way of Anſwer, for moſt part of that may be confeſſed, and yet avoided.

Reply Whereas my Lord of *Strafford* hath made the greateſt part of his Defence in matter of fact from Uſage, their Lordſhips may pleaſe to conſider, that there can be no legal Uſage contrary to an Act of Parliament, made before time of memory, as 25 *E.* 3. in *England*, and 18 *H.* 6. in *Ireland*, much leſs can there be Uſage for committing of Treaſon.

The Uſage inſiſted on, is Firſt, for Soldiers being Aſſeſt on Septs, till Rebels and Traytors not apprehendible, were brought in; and by Rebels, his Lordſhip would have underſtood, not Rebels againſt the King and State, but pettit Offenders and Felons, and for that did examine Witneſſes: But the Witneſs ſays, That when ſuch had committed Felony, and withdrawn themſelves into Woods, a Proclamation went out to call them in, and if then they came not in, they were eſteemed Rebels, and Soldiers were laid on their Septs, which is not to lay Soldiers on Subjects in time of Peace, when they will not conform to his private Orders.

The *Stat.* 11 *Eliz.* deſcribes what the laying Soldiers on the Sept was, *viz.* When Outlaws and Rebels lie in the Woods, and will not be apprehended with the ordinary Arm of Juſtice, then five of the beſt of the Sept ſhall be Fined, but not, that Soldiers ſhall be laid on them. And this being a Statute and lately made, muſt needs give the Riſe to this laying of Soldiers on the Septs by the Council-Board, inſtead of a Fine; ſo this is no juſtification or excuſe, it not being a full Anſwer home to the preſent Caſe, nor is this of right to be juſtified.

The next Uſage was concerning the King's Rents, which Mr. *Conley* only extends beyond the time of my Lord of *Faulkland*, he ſpeaks of it in the time of my Lord *Granderſon* and *Chicheſter*, yet it was no poſitive Teſtimony, and he was an old Man, and his Evidence uncertain for thoſe times. Beſides, there was no account given of the certain reaſon, whether by a legal Proceſs or no: For there might be due Proceſs awarded, and a Writ of Aſſiſtance, to carry the power of the Country, and ſo the thing be done by legal authority; and therefore ſince it cannot be applyed to any rule, it muſt be intended to be an illegal power if at all.

The reſt were all for Rents in the time of my Lord of *Faulkland*. The inſtructions were produced by my Lord of *Strafford* himſelf in time 1628, which was before my Lord of *Faulkland* went out of that Government.

And by theſe inſtructions there is an Agreement, and it is taken to be for the benefit of the people, that the King's Rents ſhould be levyed by Soldiers, ſo that for all the time of my Lord of *Faulkland*, and the Juſtices ſince, it was within the compaſs of the Inſtructions, and reduced to the conſent of the people, and the words of the *Statute* are, *No Soldiers ſhall be Aſſeſt without conſent*, but this remains charged to be by force, and againſt conſent. *Article* 15.

That concerning the Contribution-money, in which another Uſage is alledged, is ſet forth to be an agreement of the People, That becauſe it might not come into the *Exchequer*, to be made a Precedent, it ſhould not be levyed by ordinary Proceſs, but by Soldiers, if it were behind, it being aſſigned for relief and pay of Soldiers, and being by conſent is out of the preſent caſe.

Sir *Arthur Tyrringham* ſpeaks of this Uſe in caſe of a pitit Debt of 16 or 20 *s.* on a Warrant from my Lord *Faulkland*, which is the only Caſe of Debt proved, but he could not tell whoſe or what Debt, it was, nor how determined or judged. If it were the King's, Debt it might be one of the Rents, or ſome Duty leviable by conſent of the People; neither did he ſay, it was on a ſuit before the Deputy, and therefore that will not come to the Caſe. Sir *Arthur Tyrringham.*

For that my Lord *Dillon* was called again touching Contribution, Compoſition, and Rents; Compoſition-Rents fall under the ſame Conſideration.

That Sir *Thomas Wayneman* laid Soldiers is but an affirmation, and expects no Anſwer, (but if the Information be true) he uſed very violent courſes, for it hath appeared he hanged a Man, without any occaſion.

My Lord produced the Inſtructions of 1628. and out of them inforced, that it might be lawful for him to levy Soldiers with authority; but it appears by the firſt Article it was conſented to at the writing, and for the Benefit of the Subject, as was before anſwered; and that very much Money was aſſigned for the Soldiers, and it may may be proved (if there be occaſion) That their iſſued Acquittances to the Captains of the Company, to deliver to the perſons from whom the Money was due, in caſe of payment; and if they did not pay by conſent, Soldiers were laid, and not otherwiſe.

For the Proclamation of *December* 1633. whereby the payment of His Majeſty's Rents and Revenues was ordered, it recites divers Rents were behind, that the ſurpluſage would not pay the Soldiers, that by want of Money, the Soldiers might make irruptions on the County; That according to direction, to prevent inconveniences, Moneys ſhould be levied, which had Riſe from the Inſtructions, 1628. For the time of it was 1633. A Proclamation might well ſecond that which was ſetled before, by the Inſtructions: If it did not purſue them, ſurely the Proclamation was an offence in it ſelf, and then there is no juſtification of a Treaſon by a Treaſon, but it might have been as well objected againſt, as this in hand; But it is true, it hath the countenance of theſe Inſtructions.

But on all theſe, there is no pretence of forcing ſubmiſſion to my Lord of *Strafford*'s Orders.

After

Article 15. After Uſuage his Lordſhip obſerves the Teſtimonies produced, and takes exceptions to that of *Berne*; that the ground of his complaint was, when my Lord of *Strafford* was in *England*; That it was done by *Pygott*'s Warrants, who was not proved to have any Warrant from him. It is true, there is no full and preciſe proof, *Pygott* had his Warrant from my Lord of *Strafford*. But though it was done after his coming for *England*, yet if his Warrant were made before, though it were executed in his abſence, it will lay it on my Lord of *Strafford*. But we ſay the Warrant was made before, and to *Pygott* as well as *Savill*. One Witneſs ſays, *Pigott* himſelf did vouch my Lord of *Strafford* to have given him his Warrant, it was my Lord Lieutenant's Warrant, he was my Lord Lieutenant's Serjeant, the Soldiers were my Lord Lieutenant's Troopers; the Soldiers laid by *Savill*, are by my Lord Deputy's Warrant, proved to be under his Hand and Seal, and many Witneſſes are in *Savill*'s Caſe produeed. And whereas my Lord ſays, no Warrant was ſhewed; if himſelf had not excepted againſt it, a true Copy had been produced, and if none be ſhewed, it is his own fault; but my Lord of *Strafford* ſhould have ſhewed it, if any thing was in it to qualifie the matter, for it is proved he give authority, and by his authority the Soldiers were laid,

Whereas my Lord ſays, this cauſe was not complained of, *Berne* gives the reaſon, he durſt not complain there, but came over hither to complain, and hath proſecuted the complaint.

My Lord of *Strafford* was pleaſed to ask *Ardah*, What he heard concerning laying of Soldiers?

It is true, he and *Savill* mention the laying on Soldiers on *Fitzgerard* but it was for the King's Money, and they ſpake it not on their own knowledge, but by hear-ſay, and it was done but once; and whether ſince the Inſtructions, it doth not appear, and if it was ſince, then it was by conſent, and this *Fitzgerard* lay out as a Rebel, and if it was done, it was done under that capacity. To that point a Witneſs was produced.

Mr. *Kennedy* being Interrogated, Whether he the ſaid *Fitzgerard* did did not lie in the nature of a Rebel when Soldiers were laid on him?

He Anſwered, That this *Fitzgerard* was Sheriff in the County of *Corke*, and failing in his Accompt at the time, Proceſs was iſſued on his Recognizance, and he held out three or four years. That he, (the *Deponent* being then the King's Remembrancer) thought it his duty to acquaint the Barons of the *Exchequer*, that he could not be found, but kept abroard in the Woods, being a Man of good Eſtate; and then on acquainting my Lord of *Faulkland* with it, a Warrant was procured to the Serjeant at Arms.

Henry Dillon ſays nothing of the Uſage, bnt pretends one *Thimbleby* ſaid, he had a Warrant, but whether he had a Warrant, or did execute it, appears not.

And if it be ſo, it appears not for what time, when it was, nor out of what Court the Proceſs came, upon which the laſt Aſſeſſment was made.

This

This is all offered in matter of Fact; my Lord proceeds to other juſtifications. Firſt, That His Majeſties Deputy is ſo qualified, that he hath power to reſiſt Rebels and ſecure Peace: And it is true, he hath power, but he hath no power at all to make a War, eſpecially in time of Peace: Now all things are appeaſed there, and no occaſion is given of a War; only that Soldiers be maintained for a Nurſery of Martial Diſcipline, but there is no occaſion of Soldiers to be laid on the Kings people. *Article* 15.

He alledged a *Stat.* 10 *H.* 7. that no War or Peace ſhould be made, but by the Deputy's *Licence*; and therefore he infers, that by the Deputy War might be made; It is true, where there is Hoſtility or Rebellion, then to oppoſe and repreſs that Rebellion, the Deputy may make a defenſive War; but to do it in time of Peace, on the King's People, that are under the Government of his Majeſty's *Laws*, is to make War on the King's Subjects, under His Peace and Protection, and conſequently, on the Soveraign Power that doth protect them.

He would compare it with forcible Entry, but the circumſtances do very much diverſify it from Riots, or forcible Entries; it is done by Soldires that come furniſhed with all warlike Ammunition, brought from Garriſons, the places of War, brought with an Officer, brought in numbers; and though the *Lord* of *Strafford* extenuates the numbers, yet the Serjeant at Arms was unlimited. So the power given to him, was a vaſt power, to take ſuch a number of Soldiers as he ſhould think fit.

His *Lordſhip* obſerves, that the *Stat.* of 18 *H.* 6. cannot conclude him, becauſe Statutes here in *England* do not include the King, unleſs he be nominated in them, the Committee expected not to hear this reaſon; That becauſe the King's Sacred Perſon is not mentioned in a Statute, who cannot be within the Blemiſh of ſuch an offence, therefore it ſhould not extend to a Subject. This is to take a power above Law, and make himſelf equal to Sovereignty, to ſay that he ſhould not be comprehended more than the King himſelf.

He ſays, he did not lead the Soldiers, but only gave a Warrant, and therefore this ſhould not be Treaſon; but though he leads them not, the Commander is an Actor; and to give Warrant for Treaſon is Treaſon.

He ſays, this is a Statute-Law in *Ireland*, and not examinable before their Lordſhips here. Mr. *Palmer* alledged, that he would do my *Lord* right; that he ſubmitted to their Lordſhips Judgments and craved leave to give anſwer to that point, and ſaid, The Laws of *Ireland* are deviſed from the Crown of *England*, the King being ſeized of it in the right of his Crown of *England*, and as a parcel of this Crown; The power they have to make *Laws* there, is derivative from the Crown of *England*, and they did thankfully accept them from the firſt Conqueror: Since that, they had power to make Acts of Parliament, but that is ſubordinate, the *Laws* there are the Laws of *England* applyed to that place: as any particular cuſtom of a Place, not the general *Law* of the *Land*, is the Law of that place by a general Cuſtom, and yet may be judged out of the precincts of that cuſtom; ſo the Laws of *Ireland* are the Laws of that Kingdom; yet may be judged by this Supream Court, out of the limits of *Ireland*. Though in an inferior Court, when a thing queſtioned in *Ireland*, is brought

Article 16. by Writ of Error, they judge according to the *Laws* of *Ireland*, not of *England*.

And my Lord hath prayed, and we require, that he may be judged according to the *Laws* of *Ireland*. So this *Law* of 18 *H.* 6. may be judged by their *Lordſhips*, though it be a *Law* in *Ireland*. But my *Lord* urges, that this *Law* is repealed, and for that he gave reaſons on many Acts of Parliament; Firſt, a Statute made 8 *Edw.* 4. That is made to a particular purpoſe, reciting one particular Statute, and repealing that, and then by a general clauſe, ratifying and introducing all the *Statutes* of *England* into *Ireland* This being but on a particular occaſion, with ſuch a general Clauſe, will not be applyable, however, it will be the Anſwer to that that follows. It is a general Clauſe to introduce the *Laws* of *England*, and ſhall not have that reflexion to repeal any *Law* of force in *Ireland*. This introducing of our *Laws* thither, ſhall not work to repeal their *Laws*, but make a conſiſtance of both *Laws*, ſo far as they may ſtand together. On that Mr. *Palmer* ſaid, he would not enlarge himſelf, it being not matter of Fact, and it was not expected that matter of *Law* would have been inſiſted on, and therefore he leaves it to thoſe that ſhall hereafter give their *Lordſhips* ſatisfaction in point of *Law*.

That which my *Lord* called a Judgment in Parliament, 11 *Eliz.* recites that it was in time of deſolation of Juſtice; That the Captains had brought oppreſſions on the People. It was in a time, when, though the *Iriſh* had been *victi* long before yet they were not brought perfectly under ſubjection of the *Laws* of *England*, there then remained Rebellions and Tumults; It was in time of Hoſtility and War, And that *Statute* gives but an Implication neither, that Captains, ſhould not Aſſeſs without the Deputy's Warrant: And it follows not, that therefore he hath authority to do it. But howſoever the thing be, this was for defence of the people to make reſiſtance againſt Rebels. But the thing in charge was in time of Peace, and full government of the *Law*, and ſo that *Statute* will give no juſtification at all.

My Lord of *Strafford* concluded, that there was no Treaſonable Intent in this, and therefore it ſhould be no Treaſon on the Statute of the 25 *Edw.* 3.

My *Lord* recited the words of the Statute, Not to be only the levying of the War, but adhering to the King's Enemies; but theſe gloſſes are not to be confouded but ſevered. The adhering to the King's Enemies, is one offence within that *Statute*, *Levying* of War another; ſo that if there be no adherence, yet if there be *Levying* of War, it will be Treaſon.

And this levying of War, it was on the King's People; perhaps there was no intent upon the King's Sacred Perſon; yet if there be againſt the King's People, ſuch a levying of War is Treaſon; ordinary Caſes of Felony are to be againſt the King's Crown and Dignity, though it be the Homicide of a mean Subject, it is againſt the King's Crown and Dignity, becauſe it is againſt the protection and ſafety of that Man that is the King's Subject; and ſo the levying of War on the King's People, by laying Soldiers in this hoſtile manner, being againſt the protection, by which they are governed, againſt the ſafety, by which the

the King is to defend them. It is a War againſt the King, his Crown, and Dignity. *Article* 15.

This is the Anſwer to the Defence. And Mr. *Palmer* concluded, That he conceived the Charge of the Houſe of Commons, in matter of Fact, was fully maintained, and for matter of Law, if their remained any ſcruple, a farther Argument, and ſtronger Reaſons ſhould be offered hereafter.

And ſo a Receſs being granted for a day, upon the Humble Requeſt of my Lord of Strafford, *the Houſe was Adjourned, and Saturday following was appointed for the next meeting.*

THE Sixteenth Article.

The Charge.

Article 16. *Charge.*

That the Earl of Strafford, the Two and twentieth of February, in the Seventh Year of His Majesties Reign, intending to Oppress the said Subjects of Ireland, did make a Proposition, and obtained from His Majesty an Allowance thereof, That no Complaint of Injustice or Oppression done in Ireland, should be received in England against any, unless it appeared, that the party made first his address to him the said Earl; and the said Earl having by such Usurped tyrannical and exorbitant Power, expressed in the former Articles, Destroyed and Oppressed the Peers, and other Subjects of that Kingdom of Ireland, in their Lives, Consciences, Land, Liberties and Estates; the said Earl to the intent the better to maintain and strengthen his said Power, and to bring the People into a disaffection of His Majesty, as aforesaid, did use His Majesties Name in the execution of the said Power.

And to prevent the Subjects of that Realm of all means of Complaints to His Majesty, and of redress against him and his Agents, did issue a Proclamation, bearing date the Seventeenth day of September, in the Eleventh Year of His Majesties Reign, thereby commanding all the Nobility, Undertakers, and others who held Estates and Offices in the said Kingdom, (except such as were employed in His Majesties Service, or attending in England by His special Command) to make their personal residence in the said Kingdom of Ireland, and not to depart thence without Licence of himself.

And the said Earl hath since issued other Proclamations to the same purpose, by means whereof the Subjects of the said Realm are restrained from seeking relief against the Oppressions of the said Earl, without his Licence; which Proclamation the said Earl hath by several rigorous ways, as by Fine, Imprisonment, and otherwise, put in execution on His Majesties Subjects; as namely, one —— Parry, and others, who came over only to complain of the Exorbitances and Oppressions of the said Earl.

April

Article 16.

Aprill 3. 1641.

Mr. Palmer *Proceeded in further Maintenance of the Charge of High-Treaſon, by the* Commons *of* England, *againſt the Earl of* Strafford; *and ſaid, They were now entring upon the* Sixteenth Article *of his* IMPEACHMENT, *and ſhewed;*

THat from the former *Articles* had been repreſented ſeveral and divers ſorts of Crimes; and how that in every of them their Lordſhips might preceive a Power aſſumed by my Lord of *Strafford*, above, and contrary to the Laws, and deſtructive to them in every part, ſo far as concerned the Subject Matter; and, how theſe Multiplications of Acts did preſuppoſe an Habit, and evidently proved that main Charge, wherewith he was Accuſed, viz. *His endeavouring the Subverſion of the Eſtabliſhed Laws and Government, and to introduce an Arbitrary Tyrannical Power.*

And, that by this *Article* it would appear unto their Lordſhips, that thoſe Exorbitances that were done in *Ireland*, were prepenſed and intended, before his going thither; That thoſe Oppreſſions were ſo by him done; and, that he might Countenance it, the *Article* Charges him, that on the 22*th.* of *February*, in the 7*th.* year of the King, he procured from his Majeſty's own allowance, that no Complaint of Injuſtice, or Oppreſſion ſhould be received in *England*, unleſs the Party made firſt his Addreſs himſelf to the Deputy, And this was obtained on his repairing to that Government: And this was to be obſerved by the Secretaries here, the Maſters of Requeſt, and all others by whom Complaints might have paſſage to His Majeſty; and, it remained as a Caution, That none ſhould be admitted.

It is true, many ſpecious Reaſons and Arguments were ſubſcribed to this Propoſition, but the effect of them was, to take the Reines of Rule into his own hands, to prevent the immediate acceſs and approach of the Subjects to His Majeſty, in their ſeeking of redreſs for their Grievances.

And, in the 11*th.* year of the King, after ſome time ſpent there, to prevent them of all means of Redreſs, their Complaints being before Imbargued, that they could not be received, no perſon at all muſt come over without Licence; There muſt not be a Rumour of what was done in *Ireland*, but ſuch as he ſhould ſo Authorize. To that end, by colour of ſome Laws iu *Ireland*, concerning them that were to maintain their Lands againſt the *Iriſh* in times of Hoſtility and Rebellion; and, under colour of ſome Inſtruction, for their keeping their Reſidence on their Lands, as alſo of a Letter to that purpoſe from His Majeſty, he is Charged; that on the 17*th.* of *Sept.* 11 *Car.* he iſſued a Proclamation, and that Commands the Nobility, Undertakers, and others that held Eſtates in *Ireland*, to reſide there, and not to depart without his Licence, and ſo reſtrained them

Article 16. them from ſeeking Relief againſt his Oppreſſions, without his Licence. To them that deſired Licenſes, he deny'd them: On them that adventur'd to repair hither without Licence, he impoſed Fines and Impriſonments for tranſgreſſing that Proclamation; and, howſoever this may be Coloured with Pretences of Inſtructions, and Letters from His Majeſty, it is an Uſurpation on Regality, and undermining of the Protection of His Maieſty over His People.

For Proof thereof,

John Loftus a Witneſs. *John Loftus* being Sworn, Atteſted; That the Copy of the Propoſitions, made by my Lord of *Strafford*, when taken out of the Clerk of the Council's Office, and was a true Copy.

The ſaid Propoſitions were Read.

At *Whitehall*, 22*th.* of *Feb.* 1631.

Propoſitions to be conſidered of by His Majeſty, concerning the Government of *Ireland*,

Theſe *Propoſitions* were entered according to His Majeſty's pleaſure, ſignified by Mr. Secretary *Cook*.

Theſe *Propoſitions* made to His Majeſty by the Lord *Wentworth* Lord Deputy of *Ireland*, and Lord Preſident of the *North*, were Read and Approved of at the Council-Board, 17*th Feb.* 1631

There being Preſent, *&c.*

THat no particular Complaint of Juſtice, or Oppreſſion, be admitted here againſt any, unleſs it appear, the Party made firſt his Addreſs to the Deputy, This is but Juſtice to the Deputy, who muſt needs in ſome meaſure, be a Delinquent.

Whence Mr. *Palmer* Inferred, It did appear that this was to be Entered, and remain with the Secretaries, Maſters of Requeſts, and all others whom it might concern.

The next thing is the *Proclamation*, in effect as followeth;

17*th.* of *Sept.* 11 *Car.* By the Lord Deputy and Council. A *Proclamation*, That Noblemen, Undertakers, and others, ſhall be Reſident here.

After the *Preamble* it Imports,

WE therefore, in Obedience to his Majeſty's Royal Command ſignified by the ſaid Letter, Do publiſh, Declare, and make known His Princely Pleaſure, That all the Nobility, Undertakers, and others that hold Eſtates and Offices in the Kingdom (ſuch only excepted, as are imployed in His Service in England *) do hereafter make their Perſonal Reſidences here; And not depart to* England

land, *or other place, without Licence of us the Lord Deputy, any former Letter to the contrary notwithſtanding: And, in caſe we the Lord Deputy ſhall have notice of their Contempt of His Majeſty's Will, We ſhall proceed againſt them in an Exemplary way to deter others: Therefore we ſtraightly Command all manner of perſons to take notice of this* proclamation. Article 16.

Mr *Palmer* obſerved, That by the *Propoſitions*, all Complaints are prevented: by the *Proclamation* all perſons are reſtrained from coming over without the Lord Deputy's Licence. And, that in purſuance hereof ſeveral perſons that have required Licences have been refuſed; That many of their occaſions to come over, were Complaints againſt the Deputy himſelf; That ſuch uſe hath been made of this Act, that the Committee of the Houſe of Parliament there were reſtrained from coming over, on pretence of this *Prohibition*.

Witneſſes were produced. And firſt,

Richard Wade being Sworn, was Interrogated, Whether my Lord of *Eſmond* did not require Licence to come into *England*, and if it was deny'd him? And, Whether he had not a Suit depending with my Lord of *Strafford*, and he would not let him come over till Publication paſſed, whereby he was prevented of examining his Witneſſes? *Wade* Witneſs

He Anſwered, That in *Auguſt*, 1638, my Lord of *Eſmond* ſent him with a Petition to my Lord Deputy, for Licence to go to make an end of the Cauſe, wherein my Lord Lieutenant was Plaintiff; That he delivered the Petition to my Lord Lieutenant himſelf, and waited on him every day for his Anſwer; that he could not get Licence on that Petition. That, after this, in *Michaelmas*-Term, 1638, as he takes it, my Lord of *Eſmond* procured the King's Letter; This Letter he delivered to my Lord Deputy, by direction of my Lord of *Eſmond*; but, in this, could not get Licence: So that he was detained from *Aug.* 1638, till *April* following, and he thinks till Publication was granted.

Lorky being Sworn, aud Interrogated touching my Lord of *Eſmond* reſtraint, till the paſſing of Publication, *Lorky.* Witneſs.

He Anſwered, That when my Lord of *Eſmond* heard, that my Lord of *Strafford* had Inſerted him into a Bill, amongſt other Defendants in the *Star-Chamber*, my Lord deſired leave to come to *England*, to make his Defence in that Cauſe, and to appear in it in perſon, becauſe without his Lordſhip's leave he could not come over, by virtue of this proclamation. My Lord ſollicited his leave, firſt by a Petition, *Aug.* 1638. afterwards by ſeveral Letters, ſome, he (the *Deponent*) carried to his Lordſhip, who ſtill denied leave, and would not ſuffer my Lord of *Eſmond* to come over, till after Publication was granted in the Cauſe, which he conceives was in *April*; my Lord of *Eſmond* having ſollicited from *April*, 1638, till *April* following.

Richard

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Richard Wade Witneſs.

Richard Wade Interrogated, What my Lord Lieutenant ſaid to him, concerning my Lord of *Eſmond*'s coming over?

He Anſwered, That on delivery of the King's Letter to him, when he looked on it in the Evening, the out-ſide (ſaid my Lord of *Strafford*) is Secretary *Cookes* hand; and to morrow Morning, if you attend me, you ſhall have an Anſwer.

That the next Morning, he (the *Deponent*) came to the Secretary *Carr*, who told his Lordſhip, The *Deponent* was there.

That my Lord ſent for him, the *Deponent*, to his Study, and ſaid, What needs my Lord of *Eſmond* be ſo importunate, for he can do nothing there; but his Attorney and Agent may do it. Indeed, ſaid he, the *Deponent*, My Lord intends only to go over to get a Commiſſion to juſtify his Innocency: Why then ſaith my Lord of *Strafford*, I will not give way, he ſhall have no Commiſſion but what is out already: and if he have any Commiſſion, it is but Negative:

Mr. *Palmer*.

And, Mr. *Palmer* obſerved, That by this meanes my Lord of *Eſmond* came to be Sentenced; and Mr. *Maynard* added, That ſo might the moſt innocent Man.

Lord *Roche* a Witneſs.

Lord *Roche* Sworn, and Interrogated, Whether he did not demand a Licence, and was deny'd; and, in what ſuit he thought to be relieved?

He Anſwered, That he prayed my Lord to give him leave, and he denyed him: That his occaſion to come over was about an Information, preferred againſt him half a year before in the *Star-Chamber*: conceiving, that there were ſome intentions againſt him, that tended much to his prejudice, by my Lord Deputy, and Lord Preſident of *Munſter*, who were the occaſion of the Information, as he conceived; and that he intended to come over, hoping he might do ſomething with the King, and their Lordſhips; and, when he demanded Licence (his Lordſhip coming to take Ship, and he (the *Deponent*) condncting him) he deny'd it him (the *Deponent*) and the Suit was not purſued in five or ſix Months; and, till my Lord went over nothing was ſaid of it, which was five or ſix Months more.

E. of *Strafford*.

My Lord of *Strafford* deſired he might be Asked, Whether he was not then Priſoner in the Caſtle? he alleadging, that he was in priſon for divers great Niſdemeanors, and being Interrogated accordingly,

He Anſwered, That he was not a Priſoner in half a year after, till my Lord came out of *England*; nor was the Cauſe followed in five or ſix Months after he propounded a Licence to his Lordſhip, which was the day his Lordſhip went Aboard.

The next caſe offered is the caſe *Dermond Mac-Carty*, who had a Suit againſt him ſeveral times, diſmiſſed in a Court of Juſtice, which my Lord Deputy took afterwards into determination himſelf, and made an Order againſt

againſt him in the Cauſe that was ſo diminiſhed: *Mac-Carty*, Grand-child to him againſt whom the Order was made (who was not bound by the Order; having no Land, nor Office in *Ireland*, and ſo not bound by the *Proclamation*) deſired leave to come into *England*, to complain indeed of this Injuſtice, though he pretended it was for his Education, but was deny'd by my Lord, and by others in his abſence, becauſe my Lord had deny'd him before. *Article* 16.

The Petition ſubſcribed by my Lord-Deputy himſelf was read, my Lord Acknowledged it to be under his own Hand.

To the Right Honourable the Lord Viſcount *Wentworth*, &c.

THe *humble Petition of* Dermond Mac-Carty, *ſhowing, That your Petitioner, for his Private Occaſions, ſpecially for better Breeding and Education, is deſirous to Travel into the Realm of* England; *he therefore moſt humbly prayeth, your Lordſhip will be pleaſed, to Licence and Diſpence with his Journey thither, And he will ever pray*, &c.

Dublin-Caſtle, 28 *June*, 1637.

FOR *Our Reaſons, beſt known to Our Selves, We think it not fit to Grant the Petitioners Requeſt; but do rather hereby expreſly inhibit, and forbid him to Tranſport himſelf into* England, *or any part beyond the Seas, without Our Licence firſt had in that behalf: And, of theſe Directions the Petitioner is required, not only to take notice, but alſo obey the ſame, as he will anſwer the contrary at his utmoſt Peril.*

On a ſecond Petition preferred by *Mac-Carty* (becauſe my Lord Deputy had refuſed to give him Licence) Sir *Chriſtopher Wainsford* did alſo refuſe his Licence.

The Petition, and the Anſwer thereunto purporting to that effect, were Read.

James Naſh Sworn, and Interrogated, Whether the occaſion of theſe Petitions was not to complain of that Decree, made by my Lord-Deputy, in a Cauſe, that had in a Court of Juſtice been diſmiſſed?

He Anſwered, That he knew the paſſages of all the Cauſes, having been a Sollicitor and Agent for the Father of *Mac-Carty*, and waiting on their occaſions in *Dublin*. That after the obtaining of two Diſmiſſions in the Suit, my Lord did Order and Decree for Sir *James Craig* 5496 *l.* againſt *Mac-Carty*. And, on this Decree, an Order to diſpoſſeſs him of all his Father's Eſtate; and he being Baniſh'd into a Foreign Part the young Man, for fear, would not come in and appear; but, hoping to have Redreſs in *England*, did Petition in this matter, in deſire and hope to have Redreſs in that Diſmiſſion made by the Lord *Strafford*.

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Mr. *Palmer* Opened the Caſe of *Parry* his Fine and Impriſonment, who is mentioned in the *Article*; That he was Servant to the late Lord Chancellor, was Examined before my Lord-Deputy of ſome things that concerned his Maſter, and had Anſwered ſo much as it pleaſed my Lord to require of him. That after this (being uſed to follow my Lord Chancellor's occaſions) my Lord-Deputy, to prevent his coming over, referred him to further Examination before the Judges, whom he attended five or ſix Days, but there was nothing to examine him upon, for he had delivered all that was required, as fully as he knew; That finding my Lord Chancellor's occaſions very urgent, he came into *England*; and, as ſoon as he came hither, it ſeems he was followed with directions thence; for, by Warrant from Secretary *Cook*, he was apprehended by a Meſſenger; and the Warrant expreſſes it, that he was one that came over without Licence: That he was turned over to Mr. *Ralton*, my Lord's Agent, and muſt give Bond to repair, and make his appearance in *Ireland*: Before that Bond was diſcharged, he did return; and, after his return, he Petitioned to be diſcharged of this Bond, he conceiving he might come over without Licence, having no Eſtate nor Office in *Ireland*; yet notwithſtanding he was Sentenced, Fined, and Impriſoned. It is true, the Cauſe expreſſed in the Sentence, is, Becauſe he went away not being Examined; and the Sentence expreſſes, That he is not Fined for coming without Licence, but becauſe he came away without being Examined.

Parry Witneſs.

Henry Parry Sworn, was Interrogated, Whether the Copy ſhewed unto him was a true Copy of Secretary *Cook*'s Warrant?

He Anſwered, That he examined it with the Original.

The Warrant was Read.

THeſe are, in His Majeſties Name, to will and Command you, to make your preſent repair to any place, where you ſhall underſtand of the —— of Henry Parry *Gent. lately come out of* Ireland *without Licence; and, by Virtue hereof, to take him into Cuſtody and keep him ſafe till you hear from me.*

Greenwich, 20 June, 1633. *To* Thomas Welſh, *Meſſenger of the King's Chamber.*

Henry Parry being Interrogated, What were the Proceedings with him about his Examinations in *Ireland*, before his coming over? And, What was the whole Proceſs of the buſineſs?

He Anſwered, That 21 *April*, 1638, my Lord of *Ely*, then Lord Chancellor, his Lord and Maſter, was Committed to the Caſtle of *Dublin*, and, no ſooner Committed, but he (the *Deponent*) was ſent for to the Council Board, and, an Oath Adminiſtred to him, by the Clerk of the Council, on my Lord of *Strafford*'s direction. That thereupon his Lordſhip Interrogated him, Where the Great Seal was? He Anſwered his Lordſhip, That he knew not where it was, unleſs it was with my Lord of *Ely*: And, after his Lordſhip had Examined him to that, he Commanded him

to

to attend the Judges the next day, to be Examined on ſome Papers of his (the *Deponent*'s), which his Lordſhip had ſeized and brought to the Council-Board, and thereupon he was diſmiſſed at night. That *Monday* next (this being *Saturday*) he attended the Judges alone to be Examined, and attended not only that day, but five days more, from thence to *Saturday*. That on *Saturday*, my Lord of *Ely* told him, He had occaſion to ſend him over into *England*, and deſired him to go: That he did come away with ſome Letters from his Lordſhip, to ſome of his Lordſhip's Friends here; And, as ſoon as he came here with Inſtructions from his Lordſhip, the Inſtructions were given to his Lordſhip's Friends, to Sollicite His Sacred Majeſty for his Relief, and Enlargement out of Priſon; and he continued a matter of two months or thereabouts; and on that, one *Thomas Welſh*, by Virtue of Secretary *Cook*'s Warrant, attached him, and kept him in Reſtraint about three weeks. At the end of three weeks he was ſent for to Mr. *Ralton*, who told him, It was Secretary *Cook*'s pleaſure he ſhould enter into Bond to go into *Ireland*, elſe he ſhould be ſent by a Meſſenger. *Article* 16.

That he (the *Deponent*) Anſwered, He could not pay a Meſſenger, but if he could not get leave to ſtay, he would enter into Bond to go to *Ireland*: That Mr. *Ralton* took a Bond, to appear the 10*th* or 12*th* of *Auguſt* following, this being in *July*, 1638. That he came into *Ireland* according to the Tenor of his Bond. That my Lord of *Strafford* being to go into the Country, he preſented himſelf before his Lordſhip in the Gallery at the Caſtle, and acquainted his Lordſhip, that he was there to attend his Lordſhip, according to the Tenor of the Bond. His Lordſhip Asked him, Who took his Bond? he acquainted his Lordſhip, That it was his Agent Mr. *Ralton*. His Lordſhip Asked, What Warrant had Mr. *Ralton* to take Bond of you? He, (the *Deponent*) acquainted his Lordſhip, He did not know any Warrant he had: but, he ſaid, He had direction from Secretary *Cook*.

My Lord Asked further, Where he took the Bond, if at the *Signet-Office*? No: ſaid he (the *Deponent*) It was at his own houſe. My Lord Anſwered, That he (the *Deponent*) might do well to attend at the next ſittrng of the Council-Board. And, that he (the *Deponent*) going away, his Lordſhip called him back, and ſaid, Methinks, Mr. *Parry* you are much Sun-burned, the weather is very hot in *England*. He (the *Deponent*) Anſwered again, The weather is very fair. His Lordſhip Interrogated him, Where my Lady *Moore* was? and, How ſhe did? He (the *Deponent*) acquainted his Lordſhip, She was in *England*.

Here my Lord of *Strafford* interrupted him, Asking, If this was to the Buſineſs? but, having direction to go on, E. of *Strafford*.

He added, That my Lord Asked him, Why he did not ſtay abroad to help my Lady *Moore* to ſpread abroad her Malice againſt him (my Lord of *Strafford*) to which (he the *Deponent*) ſaid, He could ſay nothing: and ſo was diſmiſſed. That afterwards

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he attended with a Petition of my Lord of *Ely*'s; and that my Lord Asked him, Where his Petition was? He ſaid, He had not any, but preſented his Perſon. His Lordſhip told him, That it was Councel-Board-day for Petitions, and wiſhed him to come ſome other time: yet after, was called back, and had an *Anſwer* to the *Petition*. That the *Tueſday* following, (as he takes it) he appeared before his Lordſhip again, without any Petition, not knowing any cauſe he had to Petition: That, the next day after he Petition'd; and on Reading his Petition, the Conſtable of the Caſtle was called, and thereupon he (the *Deponent*) was Committed, and Cenſured (as he was told the next day) 500 *l.* That his Lordſhip Declared the Order of the Board, That he (the *Deponent*) was fined 500 *l.* Bound to his Good Behaviour; Committed to the Caſtle of *Dublin*; and to Acknowledge his Offence at the Board, and to Mr. *Ralton*; and there he continued in Priſon, and was utterly Ruined.

Being Asked, Whether he was heard to Anſwer in the Cauſe; or, Whether he was Examined after his Return?

He *Anſwered*, That he never put in *Anſwer* in Writing, nor was there any *Petition* againſt him, but only his own *Petition*; nor further Required to be Examined from that day to this.

Being asked, How much of his Fine he paid?

He *Anſwerd*, That before he could ſee his *Order*, he was fain to pay Sir *Paul Davis* 45 *l.* and, when he ſaw his *Order* for reducing it, for it was reduced from 500 *l.* to 250 *l.* of which he paid 184 *l.*

Mr. *Palmer*, afterwards His Majeſty's Attorney-General.

Mr. *Palmer* proceeded, obſerving, That the next thing was, a Refuſal of the whole Kingdom to Preſent their Complaints: It is true, ſaid he, it was not by my Lord of *Strafford* himſelf, but it enſued on theſe Acts, and Proclamations; and that was hindering the Committee of the Parliament that were to come over, to make a Remonſtrance of their Grievances to His Majeſty.

Linch Witneſs.

Sir *Robert Smith* being Sworn, and Interrogated, Whether he was imployed by the Houſe of Commons to come over hither? and, Whether he was deny'd Licence?

He *Anſwered*, That we were ſent for by my Lord Deputy *Wainsford*, and he put us (as we conceived them) ſeveral catching Queſtions, as, If they had not my Lord Deputy's Licence, and the Boards. Whether they would repair to *England* or no? We Anſwered, That, in obedience to the Houſe of Commons, we did intend to repair to *England*. No, ſays my Lord Deputy, Anſwer me Categorically; Would you go or no, if we would Command you not to go? to this we Anſwered, No: being between two Juriſdictions, both from His Majeſty; for, we had a Command from the Houſe of Commons, and a Counter-Command

mand from his Majeſty, and we were denied Licence, and a reſtraint of Ships, for that cauſe they conceived to reſtrain them. *Article* 16.

Being asked, whether the Deputy did know the Houſe of Commons had ordered them to come over, and yet refuſed?

He anſwered, the Lord Deputy did know it, it was apparently known to all the Kingdom.

Mr. *Fitz-gerard* being examined to the ſame points, as Sir *Robert Linch.* *Fitz-gerard*, Witneſs.

He *Anſwered*, That after the Seſſion of Parliament, 1 *Octob.* laſt, and the Houſe of Commons had travelled till the 6 *Nov.* in the affairs of the Kingdom, the grand Committee had heard and diſcuſſed many grievances general and particular, and voted them to the Houſe. That about the beginning of *Novemb.* the Houſe entred into conſideration of thoſe grievances, and drew up a Petition of Remonſtrances to be preſented to the Lord Deputy, which was voted in the Houſe of Commons 7 *Nov.* 9 *Nov.* the whole Houſe attended with the Speaker, and the Speaker read it publiquely before him. The grievances were of that nature, that they did Humbly, and of Right (as he remembers) petition for redreſs of thoſe grievances; that the Houſe conceiving the Parliament would be Prorogued, or Diſſolved before Redreſs was given, they entred into conſideration of a courſe to preſent it to His Majeſty. And 11 *Nov.* made an Order: that the Committee ſhould be appointed to repair to *England*, with a Caution, That if Redreſs ſhould not be had before Diſſolution, or Prorogation of the Parliament, that Committee ſhould not proceed. 12 *Nov.* it was Prorogued without Redreſs; that the next day after Prorogation the Committee was ſummoned to attend at the Board, and there was interrogated ſeverally on a queſtion, as far as he can remember, *viz.* Of their intention to go into *England*, whether they would ask leave to go into *England?* and admitting my Lord Deputy ſhould command them not to go, till His Majeſty's pleaſure was known, whether they would go? To all they were ſeverally to anſwer, and Categorically (this was my Lord Deputy's word) after Anſwer given, they were ordered to withdraw, and being called in again, it was made known by the Lord Deputy *Wainsford*; That he and the Lords had conſidered the whole matter, and bade them take notice, there was a Proclamation, reſtraining all the Subjects of *Ireland* to make repair to *England* till application was made to the Deputy. That he engaged them in Allegiance, not to depart, till he (the Lord Deputy) had known His Majeſty's pleaſure, whether they ſhould go or no, which he would labour to know ſpeedily.

The next thing Mr. *Palmar* offered, was the Iriſh Remonſtrance, which was read.

To

Article 16.

To the Right Honourable the Lord-Deputy, The humble and juſt Remonſtrance of the Knights, Citizens, and Burgeſſes in Parliament.

THE Petitioners do conceive great and ſtrong fears of a Proclamation publiſhed in this Kingdom, Anno 1635. *Prohibiting Men of Quality or Eſtate, to depart this Kingdom without the Lord-Deputy's Licence, whereby the Subjects of this Kingdom are hindred and interrupted from free acceſs to His ſaid Majeſty and Privy Council of* England, *to obtain remedies againſt their juſt grievances, as their Anceſtors have had, ſince the Reign of* H. 2. *and great Fees exacted for the ſaid Licences.*

Mr. *Palmer.*

And ſo Mr. *Palmer* ſummed up the Evidence, That by the Propoſition made before my Lord Deputy's going over, it appeared what was intended, That no complaints of oppreſſion ſhould be made without addreſs, Firſt, to the Deputy, and what followed, declares plainly the execution of it; That notwithſtanding the injuſtice and oppreſſion done, complaints could not be received. By the former Article, their Lordſhips have heard what he did there, and the great cauſes of complaint; After in time, is the Prolamation, their Lordſhips ſee the uſe made of it, that thoſe who have made complaints againſt my Lord himſelf, and his Orders, were refuſed to have Licence; ſome that adventured to come without Licence were Fined and Impriſoned to their utter ruin. The whole Parliament, when the Order was well known, were refuſed to have Licence; It is true, not by my Lord of *Strafford*, but the Deputy, who coloured his denial from theſe Acts of my Lord of *Strafford*; what fears they had, their Lordſhips may apprehend by the Remonſtrance; My Lord of *Strafford* aſſumed a great power to himſelf, all Addreſſes being firſt made to him, and the Subject thereby excluded from His Majeſty, till ſuch Addreſs was made; ſo that his Lordſhip is not *Par negotio*, but *Supra*, above all the Authority committed to him; not an Acceſſary but Principal; not in the nature of a Subject but *Domini*, and ſo he expected his Lordſhip's Anſwer.

E. of *Strafford.*

My Lord of *Strafford* after a little time of recollecting himſelf, began his Defence in ſubſtance as followeth.

That he ſhould not only apply himſelf to the things in charge, as near as he could, and give the faireſt Anſwer he could, where, by the way he alledged. That he might very juſtifiably ſay, he had never in his life other thoughts or intentions before his going into *Ireland*, or during his abode there, but juſtly and faithfully in the Service of His Majeſty and the Kingdom; nor did he ever deſire, or intend any thing, ſo much as to introduce the Engliſh Laws and Government there: And whereas he is charged with a ſubverſion of the fundamental Laws, he may ſay, he thinks, with Truth and Modeſty, that the Laws had never ſo free a paſſage, that never any Deputy gave leſs interruption to the proceedings of the Law, than it had, during all his time: That it did not appear by all that hath been ſaid, that there was any ſtay of legal proceedings; for all the Cauſes ſpoken of him, came originally, and primarily, before they depended in any other Court; and that he never hindred, but gave all furtherance to the paſ-

ſage

ſage of the Common-Law; and therefore if their Lordſhips find (as they cannot but expect from him much) error and miſtakes, he beſought them out of their Goodneſs and Nobleneſs, to apply it rather to his Infirmity and weakneſs, than to any habit of ill he had got, as he truſts, he ſhould make appear to their Lordſhips. The Charge, is to have procured, with an intent of oppreſſion, a ſtop of all complaints of Injuſtice, that none might be received in *England*, unleſs it appeared, That the party did make his addreſs to him. *Article* 15.

To prove this, the Gentlemen have read a Propoſition of his, made before his going into *Ireland*, and as appears, by their own ſhewing, ſuch a Propoſition as was allowed and approved of by their Lordſhips at the Council-Board. He deſires that in this (as in all things elſe) he might not be taken in pieces, but altogether; for if they take part, and leave what they pleaſe, they may make a Man ſpeak ſtrange things; and therefore he deſired their Lordſhips would hear the Reaſons inducing that Propoſition as well as the Propoſition it ſelf, being under the Clerk of the Council's Hand, and ſo atteſted by Mr. *Ralton*: The Propoſition and Reaſons were accordingly read as followeth in ſubſtance.

Feb. 1631. A Propoſition amongſt divers others, entred in the Regiſter of the Acts of Council 22 *Feb.* 1631. follows in *hæc verba.*

THat no particular complaint of Injuſtice or Oppreſſion be admitted here againſt any, unleſs it firſt appear he hath made his Addreſs to the Deputy.

And indeed, this is but juſtice to the Deputy, who muſt needs in ſome meaſure be a Delinquent, if the complaints be true, as being in chief univerſally to take care that His Majeſty's Juſtice be throughly complyed with in that place; and therefore good reaſon his Judgement ſhould be informed, and his Integrity firſt tryed, before either be impeached; Nay, it is but juſtice to the Government it ſelf, which would be exceeding ſcandalous, through the liberty of complaints, and the Miniſtry therein extreamly diſcouraged, upon every pettit matter to be drawn to anſwer here, when the thing it ſelf is for the moſt part either injurious, or for which, the party might have received good ſatisfaction at his own door. But where the complaint appears formally grounded, and where due application hath been made to the Deputy, without relief to the party, let it be throughly examined, and ſeverely puniſhed, whereſoever the fault proves to be, eſpecially if it be corrupt or malicious, for ſo he ſhall not only magnify his Juſtice, but puniſh an unfaithful Miniſter, or clamorous Complainant, and his ſervice ſhall thereby be bettered.

From whence my Lord of *Strafford* inferred, That by this it might appear to their Lordſhips, his intent was not to aſſume any greater Authority, than became him to deſire; but meerly to prevent Clamors and unjuſt Complaints, and that they might be redreſſed nearer home without Complaint, and no way to hinder any Man's juſt complaint.

And ſo it had no relation nor aſpect to himſelf, but meerly to the furthering of the King's Juſtice. And ſo that Propoſition could not (he conceived) be turned upon him, otherwiſe then as Juſt and Honourable. For the Proclamation it ſelf, and the ſtaying of Men from coming without

Article 16

out Licence (the thing complained of) he begged leave to acquaint their Lordſhips with ſome particulars.

He conceived by the Laws of *Ireland*, no Man that is a Subject and Liege-man there, can come from thence without Licence from the Deputy, but it is very penal, and to that purpoſe he would mention two or three *Statutes* of that Kingdom; One is the 26 *H.* 6. *ca.* 2. The Title whereof is, *An Act that the King's Subjects, or Officers in* Ireland, *may be abſent by the Commands of the King or Governor, or Council, without Cenſure of*, &c.

The words of the *Statute* in ſubſtance.

Alſo it is decreed and agreed, that none of the King's Leige Men (who comprehend all, as he conceives) or Officers of the Land, go out of the Land, but by Commiſſion from the King or his Heirs, Lieutenant-Juſtices, &c. *All the Rents, Benefits, Offices, or other Poſſeſſions by their ſaid Abſence, ſhall be ſeized into the King's Hands*, &c.

Whence my Lord of *Strafford* inferred, That if they go without the Governor's Licence, there is a forfeiture of all theſe.

Another is 25 *H.* 6. *Ca.* 9. It is ordained, *&c.*

That if any Leige-man be out of the Kingdom, by the Commandment of the King or his Heirs, or the Lieutenant there, Deputy-Juſtices, or Council; Their Rents, &c. *ſhall not be ſeized*, &c. Whence his Lordſhip inferred, That if they go without Licence, they are puniſhable for it.

The next is a certain Article, preferred by certain *Iriſh* Agents then in *England* in *May* 1628. or thereabouts, long before he was thought on for a Deputy in *Ireland*, either by himſelf or any body elſe; and this is from their own deſire and Petition,

Being atteſted by Mr. *Ralton* to be a true Copy, one Article was read, being in ſubſtance as followeth.

May 1628. *TO the Kings moſt Excellent Majeſty, the humble Petition of Your Majeſty's faithful Subjects, appointed Agents to prefer certain humble Requeſts*, &c. *to your Highneſs, in behalf of your Kingdom of* Ireland.

After the Preamble, amongſt other things it contained,

That His Majeſty would be pleaſed, that in reſpect of the non-reſidence of many great Men, who ſpending their Eſtates abroad, the Kingdom was impoveriſhed, and great ſums of Money tranſported; Order might be taken, that both they, and all Undertakers, on whom Eſtates have been beſtowed, for the better ſupporting and improving of the Kingdom, may make their perſonal Reſidence, at leaſt half the year, and not to depart without Licence.

His

Article 16.

His Majeſties Anſwer was given in theſe words.

ALL the Nobility, Undertakers, and others, who hold Eſtates and Offices within that Kingdom, are to make their perſonal Reſidence there, and not to leave it without licence, ſuch perſons excepted only, as are imployed in Our Service in England, *or attend here by Our ſpecial Command.*

Next my Lord of *Strafford* deſired, he might read the Lord *Faulkland*'s Inſtructions, which as he conceived, were purſuing to this, and they were as he takes it, 24 *May*, 1628. which being atteſted by Mr. *Brooks* to be examined by the Original, was read.

C. R.

Inſtructions to be obſerved by, or, *&c.* *Henry* Viſcount *Faulkland*, or Council there, *&c.*

ALL the Nobility, Undertakers, and others, who hold Eſtates, or Offices in that Kingdom, are to make their perſonal Reſidence there, and not to leave it without licence; ſuch perſons only excepted, as are employed in Our Service in England, *or attend hereby Our ſpecial Command.*

Next his Lordſhip offered His Majeſties Letter of the 20th of *January* 1634. commanding the publiſhing of this Proclamation, which Mr. *Ralton* affirming to be a true Copy, was read.

C. R.

To the Lord Deputy of *Ireland.*

WHEREAS amongſt other things in the Graces vouchſafed to our Subjects, 1628. *We ſignified our Pleaſure, That the Nobility, Undertakers, and Others, holding Eſtates in* Ireland, *ſhould be reſident there, and not to depart without licence: And being now given to underſtand, That notwithſtanding thoſe Directions, divers perſons (not of the meaner ſort) take liberty to paſs into this Kingdom, or foreign parts, as if they underſtood not what they owed to Us in their Duty, or themſelves in their evil Carriage, which preſumption we may not long ſuffer,* &c. *We do therefore hereby Will and Require you, by Act of State, or Proclamation, to make known Our Pleaſure, That all Nobility, Undertakers, and others, that hold Eſtates and Offices, (which perſons only excepted, as be imployed here,* &c.) *do hereafter make their perſonal Reſidence, and not depart for* England, *or other place, without privity of our Deputy, any former Letters to the contrary notwithſtanding.*

And becauſe We reſolve to have this courſe conſtantly obſerved (if you ſhall have notice of any Contemner of this Command) Our Will and Pleaſure is, That you proceed againſt them in an exemplary way to deter others; And for ſo doing, this ſhall be your Warrant.

Article 16. E. of *Strafford.*

My Lord of *Strafford* obſerved, That he might well have hoped, that this being required by the Laws of the Land, that no man ſhould depart without licence, but it ſhould be penal to him, having their own Articles, which deſire the ſame thing; That by this Proclamation the Power of my Lord of *Faulkland* was eſtabliſhed upon him; and the King's Command for the iſſuing this Proclamation, being juſtified by the King's own Letter, ſo that this ſhould not have been laid to him, for ſo great and high a Crime as it hath been repreſented to your Lordſhips; and he truſted that by that time, their Lordſhips thought it not ſo great a Crime, as it might at firſt ſeem to be.

That he was not very haſty in iſſuing the Proclamation, (he having no intereſt in it, nor nothing to drive him forwards) for tho' His Majeſties Command was, bearing date 20 *June* 1634. yet the Proclamation iſſued not till *Sept.* 17. 1635. And becauſe all he had ſaid, had been turned on him as a Crime, his Lordſhip gave this further Anſwer,

That there could be no Proclamation made by the Deputy alone, (he being abſolutely reſtrained by his Commiſſion not to make a Proclamation without the Council) therefore he could not be ſingular in the fault, but had the conſent of all the King's Council; and for inſtance, in Matter of Law, the Chief Juſtices are ſitting at the Board, to whom all Matters of Law are referred, and they are anſwerable for it; and are ſo learned, that they could not do things ſo frequently, without good Authority; and this he offered in excuſe of this, and all other Proclamations, not doubting but it was according to the Laws and Cuſtoms of the Land.

And for further ſatisfaction, that part of his Commiſſion that concerned the Proclamation was read, and in this particular he deſired leave to offer ſomething more with all Humility, that tho' none of theſe were for his juſtification, yet for Reaſons of State, this Reſtraint was moſt neceſſary; for whoſoever goes over Deputy, while theſe two great men (to term them no worſe) *O Neal* and *Tir-Connel*, have Regiments of the moſt antient Iriſh Septs, ſerving the King of *Spain*, under their Command, it is neceſſary for him to have an eye upon them; for if every one might withdraw himſelf at pleaſure, without giving an account, it would open all the power and means that poſſibly can be, to diſtemper that State, and certainly if that liberty might be granted, he feared it would produce ſad events in that Kingdom.

Moreover, if all the Primogeniture and Nobility of that *Religion*, ſhould be ſuffered to go over to *Doway*, *St. Omer*, and the Jeſuites Colledges, it was to be feared, they ſhould not be ſo well brought up for the ſervice of the King and Common-wealth, as may be deſired; and therefore it was neceſſary, according to the conſtitutions of that Kingdom, that they ſhall give an account to the Chief Governor; And it was no other than what is practiſed here in *England*; no man being at liberty to go hence into *France* without licence. And certainly, ſaid he, it is an Account we owe to the King, and ſtands with the Law of Nature. *Pater Familiæ* may take accompt of his own Houſhold, and the King being the great Father of the Common-wealth, we owe this Accompt to him. Therefore he conceived it can be no great offence in him, to do this on theſe grounds; as he recommended the proſperity of that Kingdom, and His Majeſties affairs there and here, to God, by his Prayers and good Deſires; ſo he wiſhes it might be taken into good conſideration, that this may be continued as a principal and neceſſary expedient, to give His Majeſty that

accompt

account, without which, the Governor ſhall not be able to take juſt meaſures of things there. His Lordſhip then obſerved, That ſomething had been obſerved, that was no part of his Charge, and therefore preſumed their Lordſhips would not expect an Anſwer to it, or conclude him any way in their Judgment guilty of it, ſince the means of giving that ſatisfaction, which otherwiſe he ſhould have done, are now taken away. *Article* 16

But when they came to be complained of in their proper place, he is ready to give ſuch an account, as becomes a juſt and innocent man. But that which ſeems to be the fouleſt of them, was that concerning my Lord of *Eſmond*, of which he remembred very little; but ſomething darkly, and if it appeared not as he ſhould ſay, he was extreamly miſtaken; for what he did not know or remember, he would not ſpeak of it confidently, and in ſhort, the point is this:

Two men ſwear that he (my Lord of *Strafford*) denied liberty to my Lord of *Eſmond* to come for *England*, *Aug.* 1638. and that he was kept in *Ireland*, and could not have licence to come away till *April* 1639. His Lordſhip confeſſed it to be very true, and that he remembred my Lord of *Eſmond* deſiring to go over, was ſtopped by him a while, (he being Sergeant-Major-General of the Army) the Army having occaſion of motion, and that he was ſure it was much about the time, if his Memory failed him not extreamly, (but when it came to this time, and he had means to produce Witneſſes, he hoped to make this appear) beſides, he was miſtaken, if he did not very ſhortly after give him a licence, and that he found not occaſion to make uſe of it; and if that was ſo, all they ſaid was taken away, for he afterwards finding it to draw towards Winter, laid aſide the licence till the Spring, at Spring he asked it, and had it; but in theſe things not judicially brought againſt him, and to which he could not make certain Anſwers, he hoped he might ſtand clear, and unprejudiced, till he may anſwer poſitively for himſelf; and then as their Lordſhips ſhould find him, they might judge of him: and he ſhould ever moſt willingly ſubmit to their Judgments, and abide it whatever it was. And, whereas the Witneſs ſaid, my Lord of *Eſmond* was hindred, becauſe he had no Commiſſion to examine Witneſſes, my Lord of *Strafford* ſaid, he was able to prove, that a Bond was granted him to examine Witneſſes.

And the Witneſs being accidentally there, his Lordſhip took notice of God's providence from that, and ſaid, God Almighty was willing to help and aſſiſt him wonderfully in his Trial, and that his Goodneſs to him in this Cauſe had been a great deal more than he would trouble their Lordſhips withal at that time; but he ſaid, he was confident, God had him in his protection, and would never forſake him; and whatſoever he ſhould looſe in this world, he would make it up to him in another world.

And for this purpoſe Mr. *Riley* was produced, who being queſtioned, Whether he was imployed in ſuing out a Commiſſion for examining Witneſſes in *Ireland*, in a Cauſe concerning my Lord of *Eſmond*, and Sir *Pierce Crosby*?

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Mr. *Riley* Witneſs.

Mr. *Riley* anſwered, That he was imployed as Clerk in the Cauſe, where Mr. Attorney was Plaintiff, by Relation of the Lord Lieutenant againſt my Lord of *Eſmond* and Sir *Pierce Crosby*, and when that Cauſe came to Commiſſion, they for the Defendant brought Commiſſioners names, and did joyn in that Bond, but he cannot remember the time.

Mr. *Maynard.*

Being asked (on Mr. *Maynard*'s motion) whether Sir *Pierce Crosby*, or my Lord of *Eſmond* ſued it out? He anſwered, He could not directly ſay; but the Clerk for the Defendants could.

Mr. *Ralton.*

Mr. *Ralton* being asked to the ſame point.

He anſwered, That he remembers, that about this time, 1638, or 1639. Commiſſions were ſued out in the buſineſs, between my Lord Lieutenant and my Lord of *Eſmond*, and Sir *Pierce Crosby*, and that he was very confident, that my Lord of *Eſmond* had the benefit of examining Witneſſes.

E. of *Strafford.*

My Lord of *Strafford* obſerved, That theſe Gentlemen ſtirred up thoſe things, to beget an ill opinion of him; but in ſhort anſwered, they were not in his Charge.

And further, That he conceived my Lord of *Eſmond* was ſtayed on a complaint of Sir *Walſingham Cokes*, concerning a practice of his, to the endangering of Sir *Walſingham*'s life. And that he was ſtayed upon that account, to be examined, and if he (the Lord *Strafford*) was not miſtaken, my Lord *Eſmond* was, after examination left at liberty: But theſe things, he ſaid, were rather aggravations of his Charge, than within the Charge, and therefore he humbly conceived, That in theſe Caſes their Lordſhips would allow him liberty, and hoped the Gentlemen will likewiſe allow it, that ſo he might ſatisfie them, their Lordſhips, and all the world, that he hath carried himſelf juſtly and fairly in all theſe particulars; Alſo aſſuring himſelf, that theſe Gentlemen were willing he ſhould give the beſt anſwer to all theſe things he could; And ſo he would, and that with all reſpect and reverence to them in the world.

The next Caſe is my Lord *Roches*, and his Lordſhip conceives, that my Lord *Roche* himſelf gives a fair anſwer; for he was informed againſt him in the *Star-chamber*, and my Lord of *Strafford* ſaid indeed, he remembred there was ſuch an occaſion for it, as he was willing to forget it, for that noble Gentleman's Cauſe, and that the complaint was of ſo high a nature againſt my Lord *Roche*, as he was not willing to preſs it, to his prejudice, nor ever did, but where there was great reaſon: And when he ſhould come to anſwer for it (for he imagines it is not expected he ſhould anſwer it finally now, being not within his Charge) Heaven ſhould juſtifie him, and ſhew that he had reaſon to ſtay him at that time.

The

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The next is *Dermond Mac-Cartyes*; and, the cauſe of his ſtay appears to be, That he would go abroad for his Breeding. Now if he and ſuch other ſhould go to *Doway* and St. *Omer*, he thinks their Lordſhips and the Houſe of Commons would have blamed him more for giving him and ſuch Perſons leave, then faulted him for reſtraining them. And, had he alledged, That he intended to go over to complain of that Decree, he would not have hindred him; and, to that purpoſe, he hath Witneſſes, that he never ſtayed any Man, that he pretended he would complain of him. The Decree was made by a Letter from his Majeſty, on a notable fraud of *Mac-Carty* (the Father) in the Caſe of Sir *James Craig*, and he that ſwears in it is Sollicitor in the Cauſe, and ſo not altogether ſo competent a Witneſs.

But, theſe are all on the by, and come rather to prove an Intention, then that which is preſſed on him, as a thing to which he is properly and finally to anſwer.

The next is concerning the Sentence of Mr. *Parry*, in which buſineſs my Lord humbly offered, That no Teſtimony is yet produced, other than the Teſtimony of the Party himſelf. Now, if the Judge may be convinced and condemned on the ſingle Teſtimony of the Party grieved, he knows no man would willingly ſit in Judgment on theſe Termes: and, out of this ſingle Witneſs (being qualified with the attribute of the party grieved) Muſt he be condemned that was one of the Judges?

But, as they have proved nothing Judicially, that can weigh with their Lordſhips, it will be fit for him to juſtifie himſelf for this Sentence, ſo far as comes to his ſhare, for all the whole Board conſented to it: And therefore he beſought their Lordſhips, to give him the honor, To offer the Sentence given againſt Mr. *Parry*, wherein their Lordſhips would ſee the Reaſon, that it was not for departing without Licence, but for great and foul neglects and contempts to the Board.

Mr. *Gibſon*.

Mr. *Gibſon* atteſting it to be a true Copy, the *Decree* of the Deputy and Council was read, being in ſubſtance;

WHereas Henry Parry, *one of them who attended the Lord Chancellor, as his Lordſhips Regiſter-keeper, or Clerk for private Judicatures, and Keeper of the Books of theſe private Proceedings, was commanded to attend the Board to be Examined: And whereas in Contempt thereof, he not only neglected to attend accordingly, but departed this Kingdom, which being repreſented to His Majeſty, it pleaſed His Majeſty to require his return hither to attend this Board: To which end a Bond was taken for his Appearance here next Council-day, after the* 12th *of* Auguſt, *and whereas he was preſent himſelf at this Board* 9th October, 1638. *but offered no* Petition; *as if he diſdained ſo far to humble himſelf to this Authority; whereupon it being made known to him, That it became him in the Duty he owed to the dignity of this Board, to come by* Petition, *as all other Men: but he forbearing to exhibit his* Petition, *till he was called by us the Deputies to do it; and then when he exhibited it, he therein miſrecited his Offence; alleadging it to be for his repairing to* England *without Licence;*

whereas

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whereas his Offence was, The diſobeying the Orders of this Board. Secondly, *He laid a Tax on* William Ralton *Eſq*; *alleadging, That on pretence of direction from Secretary* Cooke, *he took his Bond for Appearance here, whereas he knew it was not by any feigned direction, but by appointment of Secretary* Cooke, *by His Majeſties direction.* Thirdly, *Inſtead of humbling himſelf, he deſired Cancelling of his Bond, and Diſmiſſion from Attendance; and the rather, becauſe he conceived he had not in any degree tranſgreſſed the* Proclamation; *cauteouſly alledging that to be his Offence, which was not laid to his Charge. And, foraſmuch as his firſt Offence in Eſloyning himſelf to ſhun the guilt whereof he was convinced; and after his bold and inſolent behaviour at this Board (in anſwering plainly, That he conceived the Command of the Lord Chancellor ought to free him from the Command of this Board) deſerves ſuch proceedings againſt him, as may be both Puniſhment to him, and Example to others: It is therefore Ordered, That he ſtand Fined in* 5001. *Bound to his Good Behaviour; ſtand Committed to the Caſtle during the Deputy's pleaſure; and make acknowledgment of his Offence at this Board. And, the Form of his Submiſſion is ſet down,* I acknowledge I preſented a Preſumptuous and Untrue Petition, *&c. Given* 30 October, 1638.

The Names of thoſe that Subſcribed it were alſo read.

Whence my Lord of *Strafford* obſerved, That he was not Sentenced for going without licence, but for other cauſes; and deſired my Lord *Dillon*, and Sir *Adam Loftus* (whoſe hands are to the Decree) might be asked a Queſtion or two. And firſt to the buſineſs of my Lord of *Eſmond*, which had been forgot before.

Dillon Witneſs.

Robert Lord *Dillon* being asked, Whether he remembred any Charge laid againſt my Lord of *Eſmond*, for a practice againſt Sir *Walſingham Coke?* whereupon being Examined, and, When it was?

He anſwered, That he remembred it was about that time, when a *Letter* was written from the Judges of Aſſize that went the Circuit of the County of *Wexford*; and they Reported, That they had taken Examinations: Whereupon it was miſtruſted, or at leaſt ſuggeſted, That my Lord of *Eſmond* was to ſet ſome on to cut off Sir *Walſingham Coke*; and, this being taken into conſideration, it was reſolved, That till the Judges had determined, Whether it was Treaſon, or not, he ſhould be ſtayed for a time; and, as he takes it, it was Reſolved he ſhould be Advertiſed into *England*.

Mr. *Maynard*.

Being asked (on Mr. *Maynard*'s motion) What time this was?

He anſwered, The Queſtion is ſudden to him; but, it was much about the time that my Lord of *Eſmond* had been in Town before; but, he cannot expreſly ſpeak to the time.

But, my Lord of *Strafford* obſerved, That the Complaint came from the Judges of Aſſize, when they came from the Circuit, and that was always about *Auguſt*.

Lord

Article 16.

Lord *Dillon* being asked, What year it was?

He anſwered, He cannot tell the year of the Lord in *Terms*, but he remembers, it was much about that time when my Lord of *Eſmond* was queſtioned, and about Summer Circuit.

My Lord of *Strafford* propoſing, That my Lord *Dillon* might be asked, What he remembred of the Sentence againſt *Parry?* and, What his behaviour was?

To this Mr. *Maynard* excepted, as not proper to examine the Judge, Whether his Sentence was juſt or no? Mr. *Maynard.*

To which my Lord of *Strafford* anſwered, That it is as equal the Judge that gives Sentence ſhould be examined, as the party againſt whom the Sentence is given. That this is a Sentence for things ſpoken and done at the Board, which ſtands not on ſuch Niceties; but Contempts and Miſdemeanors to a Court are frequently determined, without Examination of Witneſſes; and, this is a Miſdemeanor done in the place.

But, my Lord *Dillon* being ſpared from Anſwering,

Sir *Adam Loftus* was examined, What he knew of that practice of my Lord of *Eſmond*, againſt Sir *Walſingham Coke*'s life? And when?

He anſwered, That the firſt time he heard of it, was, upon an Information of the Judges of the Circuit to my Lord Deputy, then in *Ireland*, as he takes it; and, he thinks, my Lord was not then in Town, but ſent the Information to the Council of *Dublin*, his Lordſhip being then at his Country-houſe; and therein, ſome practice againſt Sir *Walſingham Coke*, of certain Rebels and Outlawes, that had laid in Ambuſh near his Houſe, was ſet forth; and thereupon that *Letter* was ſent to the Council to conſider of it, and take courſe for his Security: That this was not all neither; for, the Examination of a Rebel in the Caſtle, brought it home neareſt to my Lord of *Eſmond*'s Caſe. But, becauſe the Rebel was a Man of that condition, it was not thought his Teſtimony ſhould be prevalent againſt my Lord of *Eſmond*: therefore the other Witneſſes were ſent for to be examined in the Cauſe. Now, this Courſe of Examination held a matter of three weeks or a month, or thereabouts (he doth not well know the time) but, theſe Men not concurring with the Teſtimony of the Rebel, in reſtraint, there was no words made of it; but my Lord of *Eſmond* was diſmiſſed, and left to take his own Courſe. The time was, as he takes it, in the Summer Aſſizes, 1637. or 1638. he knows not which: And this is the truth, and all he knows of the buſineſs.

Whence my Lord of *Strafford* inferred, That being under that Charge of Sergeant-Major-General of the Army, he denied him liberty to go into *England*; but, as ſoon as he was clear, he had his licence. E. of *Strafford.*

Article 16.

Mr. *Maynard* deſiring their Lordſhips to obſerve, that my Lord of *Strafford* explained himſelf thus; That he thought ſo, or very ſhortly after: And added, That the Gentleman is very quick with him, being a Man of great underſtanding, and himſelf a weak Man. But, that he means very juſtly, and would not be taken in an Untruth; and ſaid, That he hath a Servant that was with him, when my Lord of *Eſmond*'s Agent came to him, at his Houſe in the Country; And deſired, he might be asked, What anſwer he gave him?

Mr. *Witheringe.* *Francis Wetheringe* being asked, What he knew concerning my Lord of *Strafford*'s giving of licence to my Lord of *Eſmond*?

He anſwered, That he remembers very well that the Gentlemen were examined, before they came to *Fairework-Park*; while he was waiting on his Lordſhip at that time, the Gentleman came to him, and deſired him to tell my Lord he would ſpeak with him: that he heard my Lord ſay, It was concerning his licence to repair to *England*; and, my Lord ſaid, He ſhould have it; but, it was Winter time, and he would let it alone till the Spring.

Being asked, What Month it was?

He anſwered, He could not very well remember, but it was the latter end of Summer as he thought.

Ralton. Mr. *Ralton* being asked, Whether the buſineſs of my Lord of *Eſmond*, and Sir *Walſingham Coke*, were not Advertized over hither?

He anſwered, That he doth very well remember the buſineſs (he being then Agent for my Lord Lieutenant.) That in one of his Letters, or the Councils, *Advertiſement* was given of this practice againſt Sir *Walſingham Coke*; and, as he takes it, was in *Sept.* 1638. or thereabouts; and that my Lord was pleaſed to do him (the ſaid Mr. *Ralton*) the favour, to give him ſome paſſages of it.

E. of *Strafford.* Therefore my Lord of *Strafford* deſired, Theſe things might not ſtick with their Lordſhips, or the Houſe of Commons, to his prejudice; when he had no Means, or Poſſibility to make his Defence: but, that in Charity they would reſerve their Opinions till they ſound the Truth to the bottom; and then he hoped he ſhould appear an honeſt Man, and that was all he pretended to.

For the *Remonſtrance of the Houſe of Commons in Ireland*, it is no Evidence, but a Charge to call him to Accompt rather, than to Condemn him or Judge him by: For, it is the *Remonſtrance* of the Commons Houſe, that have not power to give an Oath, and ſo may be eaſily miſinformed, when they want a Means to try out the Truth.

But, for the *Great Fees exacted for theſe licences*; Here are two of his Secretaries imployed in this buſineſs, whom his Lordſhip deſired might be Examined

Examined, What Fees they demanded, and had in this particular? He added, That he durſt ſay, Thouſands that went over without Licence were never queſtion'd for it: nor any, but where there was Cauſe; as in Caſe a Man was ill-affected, and then he was looked after. *Article* 16.

Mr. *Slingſby* being Asked about the Fees for *Licence*?

He Anſwered, They did give the Clerks directions never to demand any Fees for Licence; and, that the Clerk never accompted to him for above Five ſhillings for any *Licence*, which he ſaid was voluntary given, not demanded. *Slingsby* Witneſs.

Mr. *Little* being Asked to the matter of Fees?

He Anſwered, That he Charged his Servant ſtill to demand no Fees for *Licences*, except of Privy-Counſellors, or Officers of the Army; and, when they had Licences they paid for them; and, the Fee of the Licence from the Captains was 20 Shillings; the ordinary Fee for others Five ſhillings; and, many times none at all was paid. *Little* Witneſs.

And then my Lord of *Strafford* added, that he had now gone over all the particular Proofs, as near as he could remember them: And, the laſt he ſhall inſiſt on is this. That there is nothing in this Charge as he conceives of Treaſon; and he muſt needs Conclude every *Article* ſo, in regard Treaſon is the only thing he is Charged withal: And, he conceives he hath given ſuch Anſwers to this, that nothing ſhall convince him before their Lordſhips of Treaſon. And for matter of Miſdemeanors, he knows their Lordſhips will give him time to examine Witneſſes, and leave for his Counſel to be heard, and then he ſhall Acquit himſelf as becomes him; and ſo with all Humility, ſubmit to their Lordſhips. E. of *Strafford*.

And thus his Lordſhip concluded his *Defence*.

ARTICLE XVI.

REPLICATION.

Mr. Palmer *Replyed thereunto in ſubſtance as followeth*;

THat my Lord of *Strafford*, in the *Preamble* of his *Defence*, hath made a great Profeſſion to their Lordſhips of his Endeavour to preſerve the Laws in *Ireland*; and that no Deputy did ever leſs interrupt the Legal Proceedings: Which though it be not the matter of the Cauſe, he deſired leave to put their Lordſhips in mind, how much he hath interrupted the legal proceedings, becauſe it hath been another part of his Army. Mr. *Palmer's* Reply.

That it hath been fully proved, How he Aſſumed to himſelf, out of the ordinary Juriſdiction, Cauſes to be heard before himſelf, on Paper Petitions, which, how groſly he hath determined, their Lordſhips have heard: And, whether this be not an Interruption to legal proceedings, he ſubmit-

Atricle 16. *Mr. Palmer.*

ted to their Lordſhips, and alſo left them to Judge how contrary it was to this Profeſſion of my Lord of *Strafford.*

To the Matter of Defence, *viz. That theſe Particulars were not complained of*; Mr. *Palmer* Anſwered, It is true, there is no particular Complaint in the Article: But, my Lord of *Strafford*, in his Anſwer, ſaid, He never deny'd Licences to any man to go into *England*, and that puts it in Iſſue, and gives occaſion to prove his Denial.

To the Reaſons of his Propoſitions, Mr. *Palmer* obſerved, they were, *viz.* Becauſe he was Reſponſible for the Juſtice of the place; and therefore good reaſon his Integrity ſhould be tried before any Complaints Came: The Officers and Miniſters of Juſtice ſhould not be drawn from thence on every Complaint, where they might have redreſs at their own doors. Theſe are fair ſhows, and ſomething muſt be ſaid to induce His Majeſty's Allowance; and, as much, as Art and Skill could invent to prevent the Subjects acceſs to their Sovereign with Complaints of Injuſtice and Oppreſſion; it muſt have a great deal of Wit and Art to colour it, and ſo he uſes it: Their Lordſhips cannot expect it from him, nor will their Lordſhips expect it in the Proofs, that he ſhould tell his Majeſty he doth all this, that they may not Complain of Injuſtice and Oppreſſion, for this is a hard thing to be done; but the thing it ſelf ſhews for what end he obtained it, his many Acts of Injuſtice proves, *Quo obtentu*, this Propoſition was gotten; if this had been gotten on the fair grounds pretended, then, upon Complaint here, His Majeſty, in conſideration of them, had had it in his own Power, to have referren them back to *Ireland*, if they were miſinformed; but, means were uſed that they ſhould not come to the King, the Bar was laid with the Secretaries, and Maſters of Requeſts, that His Majeſty ſhould, by no means know as to conſider of the fitneſs, or unfitneſs of them.

For the Matter of the Judges and Miniſters being withdrawn; it is true, they were moſt likely to be complained of; but when they cannot be complained of but to my Lord of *Strafford*, this draws a great Dependence on him, and makes them amenable to his Will. As, in the Sentences wherein they concurred, and whereby he would juſtifie himſelf.

Again, the diſcouraging of Complaints in this Propoſition, and the Arguments uſed to his Majeſty, provided a Puniſhment for clamorous Complaints; ſo, that they, which had Cauſe of Complaint, being thrrified with a puniſhment (though they were now Clamorous) might not be made appear to be ſo.

For the Authorities whereby he juſtifies this Proclamation. *Firſt*, He inſiſts on the Laws of that Kingdom, that by the Law they could not depart the Realm, and that by an Implication 25 *H.* 6. But Mr. *Palmer* obſerved, that that is no Prohibition of coming out of *Ireland*; but, if any Liege man, *&c.* ſhall by the King's Command depart the Realm, his Lands ſhould not be ſeized; and the only inferrence can be, That if others went without Licence, their Lands might be ſeized, but not that their perſons might be reſtrained from coming without Licence.

There were ſuch Proviſions and Ordinances in *Ireland*, to which the Inſtructions following, and His Majeſty's Letter had Reference; That thoſe perſons that had great Poſſeſſions in *Ireland*, time of Diſcord, were to be reſident upon their Land Perſonally, ſo that their Land might be maintained againſt Incurſions. And, this is plain, by a Statute 28 *H.* 8. *Ca.* 3 Reciting the Inconvenience from thoſe they call *Abſentees*; That is, that having large Poſſeſſions by Deſcent, or Grant did Demurre in *England*,

and

and left thoſe poſſeſſions unſafeguarded; and, by this means, the *Lands* (which His Majeſty had been at great Coſt in Conquering) were regained by the *Iriſh*, and therefore there was a Penalty on thoſe *Lands*; and, it is provided, that the King ſhall be Entituled to the Duke of *Norfolkes* Land for that cauſe: but, here is only a Proviſion that the *Lands* ſhould be ſafeguarded, but not that the Subject ſhould not reſort to the Kings Majeſty for redreſs of Grievances and Oppreſſions, and that is in the Charge againſt my Lord of *Strafford*. *Article.* 16.

For the Inſtructions of *May*, 1628, on a Petition by the Inhabitance; the Petition was, That they might make Perſonal Reſidence at leaſt half a year; but, that related to Undertakers, and others that have *Lands* and Offices there, and ſo was for the ſame purpoſe that the Lands ſhould be ſafeguarded; but certainly, there is great difference between Reſidence, and Reſtraining a Reſort hither to make Complaint to His Majeſty: It is true, there ſhould be a Reſidence, they were not to depart without Licence; but, if they had Tempory occaſions, or reaſons of Complaints, It is not againſt the Inſtructions that Licences ſhould be deny'd.

My Lord inſiſts on this, that it is the Law of the Land, and agreeable to the Laws of this Land, and he would willingly bring the Laws of this *Land* into *Ireland*. But, under favour, the *Laws* of this Land are not ſo; It is no offence, or Contempt for any Subject, to depart this Land without Licence: Our Books are ſo. The Statute 5 *R.* 2. did provide, that none ſhould depart without *Licence* (a general Prohibition) except they were Lords and good Merchants: Therefore, by the *Law*, (before that Statute was) any man might depart without Licence; and, that Statute is ſince Repealed, by a Statute made 4 *Jac.* So that by the Common *Law* of *England* the paſſage is open again; and it is no offence at all to depart without Licence. It it true, His Majeſty may reſtrain by a *Ne exeat Regno*, &c. or by a Proclamation on ſpecial Cauſes, but till then the paſſage is open, and they may depart by the *Law* of the *Land*, and the Penalty is only in the Caſe of the *Abſentees*.

My Lord alledges the King's Letter; There is as much skill as can be for a Defence, The Proclamation reciting theſe Letters, and the Inſtructions. But, the grounds are falſe: For, that which is appliable to a Reſidence for Defence, my Lord makes a ground to reſtrain all kind of Reſort.

My Lord takes notice of his Moderation, in Executing the King's Letter, in reſpect of the diſtance of time, between the Letter, *January* 1634, and the Proclamation, *Sept.* 1635. If it had been a Service to His Majeſty, it ſhould have been ſpeeded ſooner; it was a diſſervice in being ſo long delayed, if the matter required it, but; there was ſomething elſe; It was not fit for my Lords oppertunity till then; and, when it was fit he publiſh'd it, and not before.

My Lord deſerting his Juſtification by the Proclamations, as a Temporary *Law* (as he may, for Proclamations be not Temporary Laws in caſe they be againſt *Law*, but Publication of *Laws*.) Now, he inſiſts on this, That by his Commiſſion he himſelf hath not Power to publiſh Proclamations, but by advice of others; So the power is not in himſelf alone, for he had the Concurrance of other Counſellors joyned with him.

Mr. *Palmer* deſired their Lordſhips to obſerve his own Anſwer; and, the Reaſon, why that Unreaſonable allowance was got, which is, That he is Reſponſible for the Juſtice of that place; and, if he be ſo, he takes but their Concurring with him; in a thing ſo much againſt *Law*, it may make it an Offence in them, it cannot extenuate his Offence.

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He inſiſts on a neceſſity of this, that it is fit for that Kingdom, and wiſhes it might be ſo continued; and that in ſeveral reſpects; in reſpect of *O Neale*, and *Tirconnel*, and the Rebels that adhere to them; and that it might be dangerous, if thoſe in *Ireland* ſhould go out at their pleaſure. Indeed, if their Reſort were thither, it were true; But the Commons having offered nothing, but their Requeſt to come into *England*, where there is no *O Neale*, nor *Tirconnel*, to Complain to the King of Oppreſſions: And, however my Lord of *Strafford* doth conceive it fit in *Ireland*, their Lordſhips here by the Remonſtrance, what Juſt Fears they apprehended; It is an Innovation brought on them, which was never on their Anceſtors form the time of *Henry the Second*.

The next thing was his Demeanor in the Execution of this *Proclamation*; Then he made that General proteſtation, That theſe particulars were not Complained of. To which Mr. *Palmer* ſaid, He muſt Anſwer as before. My Lord hath put it in Iſſue, That he he never did deny Licence, which caſt the Commons on Proof, That that in particular hath been deny'd.

The Caſe of my Lord of *Eſmond* is obſerved to be in time, 1638. And whereas it is ſaid, a Licence was deny'd, becauſe there was ſome Charge againſt him, of Practiſing againſt Sir *Walſingham Cook*. This needs no other Anſwer, but what Sir *Adam Loftus* has given, That the buſineſs was continued in Examination no longer than three Weeks, or thereabouts, and was then diſmiſt; whereas the Denyal continued longer But, if it be truly informed, This demand of Licence to come over was in *Auguſt*; the Information came not till *September* after: So that the Information cannot be applyed to avoid the Denial of the Licence.

Torky Witneſs.

Torky being Asked the time of year the Summer Aſſizes uſed to be in *Ireland*?

He Anſwered, That he hath obſerved them, ſince his knowledge of that Kingdom, to be in *September* for the County of *Wexford*.

Whence Mr. *Palmer* Inferred, That if the Petition were in *Auguſt*, the Aſſizes in *September*, this could be no Reaſon, why in *Auguſt* an Information in *September* ſhould be the Cauſe of denying the Licence.

My Lord ſays afterwards, He did give him a Licence; but your Lordſhips may remember, it was not till the opportunity was paſt of examining Witneſſes. And, whereas it hath been ſaid, in Anſwer, That my Lord of *Eſmond* did joyn, and *Riley* was produced; yet *Riley* ſays, There were two Defendants, Sir *Pierce Crosby*, and my Lord *Eſmond*; and, for whom the Commiſſion was, he cannot tell: And, if there were a Commiſſion, it is very ordinary to have more then one; and, if it be deſired, a ſecond is juſt as the firſt. Mr. *Ralton* ſays, he is confident there was a Commiſſion: if there was ſo, Why is not that Record produced?

The

The next particular was my Lord *Roche*, and the Anſwer to that is, That there was an Information againſt him in the *Star-Chamber*. It is true, but that had ceaſed half a year before he deſired a Licence, and therefore could not be a cauſe to hinder a Licence. *Article* 16.

For *Dermond Mac-Carty* it is ſaid, his Petition was for liberty to go over for breeding, and therefore he might go to *Doway* or *St. Omer*. &c. But their Lordſhips might obſerve this Petition was to come into *England*, and the occaſion was his Relation to that Suit, and that is conceived the cauſe of denying that Licence; for my Lord could not but know that *Mac-Carty* had relation to the ſuit before him, which was decreed after a double diſmiſſion, and it is no Exception that the Witneſs is his Sollicitor in the Cauſe: it is ordinary that the Sollicitor be admitted a Witneſs, and the beſt Witneſs in Courts of Juſtice.

And to anſwer that fully and clearly, it ſhall appear, that this very thing is aſſigned by Secretary *Little*, to be the reaſon why he ſhould not go over, that he might not complain of his Suit, and a Witneſs did depoſe to that effect.

John Meaugh being Sworn and Interrogated to the Cauſe of denying the ſaid Licence.

He Anſwers, That he went to *Dublin* with *Mac-Carty* the Son, with the Petition, and that Secretrary *Little* took the Petition in his hand, and ſaid, Are not you *Mac-Carty*'s Son? Yes ſaid he. And you intend to go and complain againſt the Order my Lord conceived againſt your Father? No indeed, ſays he, I do not; Says the Secretary, I will take your Petition and deliver it to my Lord, and I believe my Lord will not grant your Requeſt, and they left the Petition and went out. A little after, a kinſman of his, the Deputy's Maſter, Sir *Valentine Brown* ſaid to him, the Son, I have heard my Lord hath granted your Requeſt in your Petition; ſo they came to the place to receive the Petition, and this is the Petition ſhewed their Lordſhips, when his, the Deputies Maſter ſaw the Petition, he would not take it. Take notice Gentlemen, ſaith Mr. *Little*, what Charge he hath, and if he doth any thing to the contrary, let it be on his peril; ſo they took the Petition, and went away.

E. of *Strafford*.

Againſt *Parry*'s Teſtimony; Firſt, my Lord ſays, he is a ſingle Witneſs, but if that be not admitted, there is no need of his Teſtimony; for Secretary *Cook*'s Warrant proves what was the reaſon, and their Lordſhips may know whence that came. His Sentence is thus far in queſtion here, whether he was Sentenced for coming over or otherwiſe; it is true (and that is the iniquity of it) the ſentence doth expreſs it to be for another Cauſe; It is not uſual in Sentences, to ſay what is not for but what it is for; but it is for his not Petitioning the Council-Table, and ſetting forth after in his Petition, that his offence was his coming over without Licence; and ſaying Mr. *Ralton* pretended Secretary *Cook*'s directions, whereas he muſt ſo ſpeak truth, as not to be charged with a pretence. And it were moſt juſt to ſentence him for coming without Licence; then for his being not called, nor any way

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way able to anſwer the Defence. That others are joyned with him in the Sentence, it doth not excuſe his *Lord*ſhip: They ſhew the more dependency upon him, and by this means, no Complaints of Injuſtice or Oppreſſion, can be brought to any but himſelf, and that brings them under his wing; However, the fault is in them, as well as in him.

The Remonſtrance he ſays, is only a Charge, but it is the Declaration and voice of all the People, ſufficient credit, to Repreſent their grievances, what they conceive to be their true Liberty, and how they have uſed it ever ſince the time of *H.* 2. Which is, that they ſhould have redreſs for grievances, which is no other than the Common-Law; that the Subject ſhould have free Acceſs to the Sovereign.

His Laſt is, That there is nothing of Treaſon in this: And to this the ſame anſwer is given, as to all the reſt, which are not individual Treaſons, The Multiplication of Acts, all containing ſomething in them of an Arbitrary power, conclude, as effects from the cauſe, from whence this proceeds.

And this thing is not ſo Petty as my Lord makes it, to deny the Acceſs of the Subject to their Sovereign; and tho' it be allowed by His Majeſties *Letter* and Inſtructions, yet theſe being obtained by himſelf, make it worſe, he taking ſo Sovereign a Power, that *Non ſentit parem, nec ſuperiorem.*

Mr. *Palmer* inſtanced in that great Caſe of the Marquis of *Dublin*, that had the Dominion of *Ireland* granted him, he had *Merum & maximum Imperium*, under the Broad Seal, and his Patent paſſed in Parliament, yet it was one of the Articles charged on him, for it tended to the Severance of the Allegiance of the People from their King.

In the next Article their *Lord*ſhips ſhall hear his demeanor to thoſe of the *Scotch* Nation.

Maynard deſired to add a word to what had been ſaid; Firſt, My Lord ſays, that the particulars are not in the Charge, but that is a miſtake, for this Caſe of *Parry* is particularly charged, and divers others; it is true, the reſt are general, but this is particular, ſo the Charge is good in that.

And whereas my Lord had endeavoured to Juſtifie this by *Law*. Mr. *Maynard* obſerved, That they do not lay the point upon that, how far the Subject may be reſtrained in that particular: But here is the ſting of my Lord of *Strafford*'s proceedings, he takes this (be it lawful or unlawful) to prevent the Complaints which might be brought to His Majeſty againſt his Injuſtice, for he hath done all that to this People: now an ill intent may make that ill which in it ſelf otherwiſe will not be ill; and he beſought their Lordſhips to take this into conſideration, what a miſerable condition the Subjects of *Ireland* are in, when there are never ſo great grievances laid on them, yet they cannot complain, and no complaint can be received, unleſs he that oppreſſes them, gives them leave ſo to do, and when their oppreſſions riſe ſo high, when ſhall he give them leave?

My Lord of *Strafford* ſays, Thouſands have come, yea many he is ſure, that have not been puniſhed nor queſtioned. Whence Mr. *Maynard* obſerved, That it ill luck that the oppreſſed are always puniſhed, others may go

go without Puniſhment; but it falls out unhappily, That they that have Complaints againſt him, are the men that are reſtrained, and it may not be thought that they will bear a Complaint ſometimes, that they may ſeek a better opportunity, when they ſhall ſee ſuch examples; that is, one Fined for exhibiting a petition, and ſaying, that is untrue; when againſt another, an Information that hath laid dead half a year, ſhall be quickned upon that occaſion, and they muſt be puniſhed more, that are more oppreſſed, as in the Caſe of my Lord of *Eſmond*. *Article* 16.

And whereas my Lord of *Strafford* ſays, he never puniſhed any, where there was Complaint before. Mr. *Maynard* beſought their Lordſhips to obſerve, that it is point blank contrary to the Evidence, and Oath before their Lordſhips; for in that particular Caſe of *Mac-Carty*, there were two Diſmiſſions: It is true, the Merits of the Cauſes are not proper to be offered, but there is Cauſe to take Confidence, that where it is called fraud on *Mac-Carty*'s part, when it is examined, it will be a very heavy oppreſſion.

And whereas it hath been ſaid by way of Juſtification (mittigation at leaſt) that there hath been no Fees taken for Licence, but ſuch as were given voluntarily, except in the Caſe of Officers of the State, or the Army; proof was offered, that Mr. *Little* that takes on him to ſwear for himſelf or his fellows, tho' he did not know whether it were or no, hath denyed Licence without Fees; and that certain Fees were demanded, ſhall be made appear.

Whereupon *Richard Wade* beeng Interorgated, whether Fees were not demanded by the Secretaries, for Licence of mens paſſage into *England*, and what Fees? *Richard Wade* Witneſs.

He Anſwered, That for Fees for my Lord of *Eſmond*'s Licence, he was demanded 24 or 25 *s.*

Patrick Gough being asked to that point. *Patrick Gough.* Witneſs.

He Anſweaed, That he remembers he hath taken Licences twice or thrice for my Lord Viſcount *Mountgomery*, and for every one of them paid 25 *s.* and for three of his Servants 25 *s.* and that thoſe were demanded, for he (the *Deponent*) would have given leſs if they would have taken leſs, and that theſe were demanded by Secretary *Little* Servants.

Mr. *Glyn* deſired one word more, and the rather, ſaid he, becauſe it ſeems my Lord of *Strafford* ſlights this Article, which is the moſt proved, and the leaſt anſwer'd of any yet heard, their Lordſhips may obſerve what is laid to his Charge, the ſubverting of Laws, and the introducing of a Tyrannical Government. And before he goes about his work, he puts off all means of redreſs beforehand; that if he give any occaſion of offence, that he is offended, ſhall not poſſibly have remedy. His juſtification is, becauſe of that great danger that may enſue, for they may joyn with Rebels but that's a pretence; Indeed he uſed that Argument when he moved it to His Majeſty; but it was, that they might not come over to make complaints. *Mr. Glyn.*

That

Article 16. That his Propoſitions were made, and entred at the Council-Table, here he aggravates his offence, and Mr. *Glyn* did thus illuſtrate it; That if a Man come to him, and deſire leave to lie in his Houſe, if he gives the party leave, and he by that means takes occaſion to betray him, or to commit Felony, or ſteal his Goods, That leave was well given, but it aggravates the others offence, when he doth miſchief to him that lodged him.

So my Lord of *Strafford*'s Propoſition was fair, but if their Lordſhips obſerve the ſubſequence of it, that he might exerciſe his Power, and leave the Subjects without means of redreſs, but they muſt come to himſelf for it. Mr. *Glyn* further ſaid, he thinks, had he ſuffered under his hands after the example of my Lord *Mountnorris*, he ſhould be loth to ſay to his face he would complain.

An Act of Parliament he produces for his Juſtification, which is plainly againſt him, for it ſhews there were ſome that held Lands there by tenure, and if they were not reſident they forfeited; Then comes the Act and ſays, That thoſe whom the King commands to be abſent, they ſhall not forfeit, which ſhows they had a perſonal Power without Licence; ſo that the very Law produced, is expreſly againſt him, and their Lordſhips may ſee by his own Propoſition, the Occaſion of his introducing this Letter. And Mr. *Glyn* concluded, That he ſuppoſes that my Lord of *Strafford* hath made no anſwer to that.

And ſo the 16th. Article *was finiſhed, and the* 17th. *and* 18th. *being for the preſent ſet aſide, the Committee that mannaged the Evidence, proceeded to the* 19th Article.

THE

THE Nineteenth Article.

The Charge.

THat the ſaid Earl having Taxed and Levied the ſaid Impoſitions, and raiſed the ſaid Monopolies, and committed the ſaid other Oppreſſions in His Majeſties Name; and as by His Majeſties Royal Command, he the ſaid Earl in May, the Fifteenth Year of His Majeſties Reign, did of his own authority contrive and frame a new and unuſual Oath, by the purport whereof, among many other things, the party taking the ſaid Oath, was to ſwear that he ſhould not proteſt againſt any His Majeſties Royal Commands, but ſubmit himſelf in all due obedience thereunto. Which Oath he ſo contriv'd to enforce the ſame on the Subjects of the Scotiſh Nation, inhabiting in Ireland, and out of a hatred to the ſaid Nation, and to put them to a diſcontent with His Majeſty, and His Government there; and compelled divers of His Majeſties ſaid Subjects there to take the ſaid Oath againſt their wills; and of ſuch as refuſed to take the ſaid Oath, ſome he grievouſly fined and impriſoned, and others he deſtroyed and exiled; and namely, the Tenth of October, Anno Dom. 1639, he fined Henry Steward and his Wife, who refuſed to take the ſaid Oath, 5000 l. a piece, and their two Daughters and James Gray 3000 l. a pice, and impriſoned them for not paying the ſaid Fines. The ſaid Henry Steward his Wife and Daughters, and James Gray, being the King's Liege-people of the Scotiſh Nation; and divers others he uſed in like manner; and the ſaid Earl upon that occaſion did declare, That the ſaid Oath did not only oblige them in point of Allegiance to His Majeſty, and acknowledgment of His Supremacy only, but to the Ceremonies and Government of the Church Eſtabliſhed, and to be eſtabliſhed by His Majeſties Royal Authority; and ſaid, That the Refuſers to obey, he would proſecute to the blood.

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Mr. Whitlock *proceeded to open the* 19th Article, *ſetting forth in ſubſtance as followeth.*

THAT the next Article in which they ſhall proceed, to make good the Impeachment of all the Commons of *England* againſt my Lord of *Strafford* is the 19*th* Article.

That their Lordſhips have heard his demeanor to the Subjects of the *Iriſh* Nation; what power he exerciſed over their Liberties, their Properties, their Lives.

That he uſed His Majeſty's Subjects of *Scotland* in the ſame manner, exerciſing an unlawful Power over their Conſciences, by impoſing a new and unlawful Oath on ſuch of them as lived in *Ireland.*

That the King's Subjects of the *Scotiſh* Nation, have the ſame benefit of Protection from His Majeſty and His Laws, as His other Subjects have ſince they are bound to the ſame Allegiance, to the ſame Obedience, and therefore what ought not to be done to any other of the King's Subjects, ought not to be done to them.

That a new Oath cannot be impoſed, without Aſſent of a Parliament yet my Lord of *Strafford* is pleaſed to enjoyn this Oath, to contrive it, to threaten them that deſired to conſider of it; he ſends forth Commiſſions, to the Gentry in the Country to tender it, and ſuch as refuſed were brought up by Purſivants and Officers in *Dublin,* and committed to Priſon, and divers of them, rather than they would take this Oath, were fain to forſake their Families, their Eſtates, and Lands, and fly away, and were exiled the Kingdom.

That the Charge, particularly mentioning the ſentencing of *Henry Stuart* his Wife, and two Daughters, and one *James Gray*, above the age of 16. who for refuſing this Oath, were Fined, *Stuart* himſelf 5000 *l.* his Wife 3000. his Daughters 3000 *l.* apiece, and *James Gray* as much; and in their Sentence my Lord was pleaſed to declare himſelf ſo bitter againſt that Nation, and ſo much reſolved, that this Oath ſhould be taken by all of them (though againſt Law) that he publickly ſaid, That thoſe who refuſed to take the Oath, he would proſecute to the Blood.

That the *Scotch* Nation were Rebels and Traitors, and that if His Majeſty ſhould pleaſe to ſend him back to the Government of *Ireland* (he being then to come into *England*) he would root out the Scotiſh Nation root and Branch. And further, did declare, That this Oath thus enjoyned did bind to the Ceremonies of the Church, not only thoſe that were eſtabliſh'd, but ſuch as were to be eſtabliſhed: So that the Oath had ſome affinity with the Oath in this Kingdom, not long ſince.

Sir. *James Montgomery* being Interrogated, what he knew concerning the contriving and impoſing of the ſaid Oath?

He Anſwered, That he was very unwilling to give any Teſtimony in this particular, becauſe he knows there is a Petition for this Oath

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Oath, to which Petition his hand is among others, and therefore ſome perchance, who do not know the paſſage of the buſineſs, may think there was a diſcordance, and a diſagreement between the inſtrument under his Hand, and the Teſtimony he muſt give, being put to it upon Oath, but he hopes there ſhall none appear when he hath ſpoken.

That in *April* (as he remembers) 1639. My Lord-Lieutenant, then Lord-Deputy, did write down Letters to the moſt part of all the Noblemen and Gentlemen of the Scotiſh Nation, dwelling in *Ireland*, (in the Province of *Ulſter* eſpecially) amongſt whom the *Deponent* received one Letter himſelf, and he was required by that Letter (as the reſt, whoſe Letters were to one effect) to repair to *Dublin*, 27 *April*, as he remembers, that his Lordſhip might confer with them about ſome Affairs, that did concern His Majeſty's ſpecial ſervice, and therefore they were required not to fail to be there that day. That thither they came, and being come, my Lord Viſcount *Mountgomery* being not well in his health, having got a cold in his Journey, the ſaid Lord Viſcount ſent to excuſe himſelf to my Lord-Deputy, that he was not able to come abroad for a day or two; and my Lord-Deputy ſent him word he would come to his Lodging, and gave warning to the reſt of the Gentlemen to meet his Lordſhip there the next day at two of the clock; that there they did all come, and there were the Biſhops of *Down* and *Raſſo;* and ſome others of the Clergy; And being met my Lord-Deputy came thither and told them, he was there as their friend, to acquaint them with ſome things that did much concern them, and to give them his advice; He did then tell them of great Diſorder in *Scotland*, of great Jealouſies raiſed againſt them, and that they who were preſent, might poſſibly be favourers, or furtherers of thoſe Diſtempers; but he added, that he hoped better of them: however, that it behoved them to do ſomething to vindicate themſelves from this aſperſion; and that they ſhould offer it freely of themſelves, and not ſtay till it were impoſed by Authority. That he did inſiſt further in his Speech, and inſinuated to them, what was expected they ſhould do, and that they ſhould be ſuitors for it. That an Oath was expected according to the example of *Scotland*, as they had there joined in a Covenant.

To this purpoſe he did deliver himſelf.

That when his Lordſhip had ended, the Biſhops of *Raſſo* and *Down*, one ſeconding the other, gave his Lordſhip thanks for his Lordſhips favour to them, and told his Lordſhip, that as thoſe in *Scotland* had joined together, and conſpired by an unlawful Oath, ſo they here would joyn in a lawful Oath in oppoſition to that, and would Petition for it to his Lordſhip. It was ſeconded by the Biſhop of *Down*, and ſome others of the Clergy there, little being ſpoken by others. That the Biſhop of *Down* deſired he might draw it, but the Lord-Deputy put it on the Biſhop of *Raſſo*. That ſome of them thought it a little too haſty, and when my Lord was riſen up he (the *Deponent*) took

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on him to ſpeak to his Lordſhip, and told him, the things ſpoken of there, were not charged againſt the Nation, but againſt the Covenanters in *Scotland*, and did not concern themſelves: and therefore thought, under favour, that it ſhould not be amiſs to think what they ſhould do, before they appointed a Man to draw a Petition, or to this effect.

That his Lordſhip was pleaſed to turn towards him ſomething in choler, and to tell him, Sir *James Mountgomery, you may go home and petition or not petition if you will, but if you do not, or who doth not*, or to this effect, *ſhall do worſe*. That they ſeeing his Lordſhip had reſolved it ſhould be ſo, there was no more ſaid; The Biſhop of *Raſſo* went with the Petition in his hand to ſome of them, being deſirous to ſee it, to contribute their advice to them, and ſomewhat ſuſpecting this Train of the Gentry, that night again the ſaid Biſhop met with my Lord *Mountgomery*, Sir *William Stuart*, Sir *James Craig* and himſelf, (the Deputy) and brought two draughts of Petitions: the one indeed was downright railing, the other not very mild he thinks: howſoever, they did deſire to have qualified it ſomething in words; but the Biſhop told them, it was already ſo cold, he was aſhamed of it, and could not engroſs it, till he had ſhewed it my Lord-Deputy, to know whether he would accept of it; The next morning ſome of them ſaw it with him, and took exception at ſome bitter words that were in it; and the Biſhop ſaid, it was not to be diſputed, for my Lord-Deputy had ſeen it, and it was done with his good liking. After that it was engroſſed, they met to have Signed it, and ſome took exceptions, that there was too great a latitude in it, and deſired it might be entred, *That they ſhould be in the Caſe with other His Majeſty's Subjects*; but the Biſhop ſaid, he could alter nothing, without my Lord Lieutenant's knowledge, and he would go to my Lord with it, and to my Lord *Mountgomery*; They intreated to go along with him, and my Lord was willing theſe words ſhould be added, *That it ſhould be in equal manner and meaſure with other His Majeſty's Subjects*; ſo the Petition was ingroſſed, and ſigned, and was afterwards delivered to his Lordſhip: That then my Lord-Deputy deſired them, to appoint five or ſix of their number to wait on his Lordſhip, and ſome of the Council the next morning, to confer concerning the Oath, and they made choice of ſix, the Lord *Mountgomery*, —— *Stuart*, and theſe two Biſhops, Sir *William Stuart*, and himſelf the *Deponent*; when they came, his Lordſhip cauſed the Clerk of the Council to read the Oath that was to be Adminiſtred; and ſome other debates they had, ſome offered ſome motions to his Lordſhip for ſome words, by way of explanation; as that they ſhould not proteſt againſt any of His Majeſty's Royal Commands, and it was deſired it might be explained, *By juſt Commands, or Commands according to Law*. My Lord did then tell them, they were not to expect any other Commands from His Majeſty; the Oath was for no other intent, and needed no alteration. The Biſhop of *Raſſo* would have had more added, ſaying, The Oath was ſo mean, he would not come from his Houſe to take it; and ſo my Lord-Deputy told him, the Oath had been well conſider'd of, and needs no alteration; That he the Biſhop

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then desired a Copy of it, to carry to the Gentlemen that were not present, and were waiting for them at my Lord *Mountgomery*'s lodging. His Lordship was pleased to deny that, but would send the Clerk of the Council, who should bring the Oath and Read it, and bring it back again, and he did so.

After this, the next day, or that afternoon, they were appointed to come to the Council-Board, and have the Oath Administred; That here they came, and my Lord himself was pleased to Administer the Oath to every one of us, two by two, or three by three. And this was the manner of Administring it.

Being Interrogated, Whether they knew the occasion of their being sent for?

He Answered, They knew not for what cause, nor heard any thing of it.

Being Asked, If he knew what Scotch men were those that left the Kingdom, because they would not take this Oath?

He Answered, That (soon after they were dismissed in *May*) Commissions came into the Country to certain Commissioners, for Administring the Oath to all of that Nation, above the Age of Sixteen; and, he believes (whether by the main Commission, or private Instructions, he cannot tell) That it was ordered, it should be administred, both to Men and Women above that Age, And, they were all called at certain days by the Commissioners; some were scrupulous, and thought in their Consciences, they could not take it; others, that were satisfied in their Consciences, did take it; and those that did not take it, the Commissioners were required to certifie their Names, and Places of Residence, to my Lord-Deputy and Council, that they might be proceeded against, as Contemners of His Majesty's Royal Authority, according to the *Proclamation* and *Commission*.

After the *Proclamation* had called them, some did appear, and they that did not, their Names were certified, and afterward Pursivants issued to apprehend them that did not appear, or them, who on appearing, did refuse. He knows of many that fled away into *Scotland*, and very many that fled up and down in the Country, and many were apprehended by the Pursivants, and carried up, and some he thinks were Censured.

Being Asked, Whether they left their Corn on the Ground, and Goods in their Houses?

He Answered; That they did.

Being Asked, Whether any *Papists* of the *Scotish* Nation were sent for by Letter, or had the Oath tendered?

He Answered, None of them that he could hear, and the Oath was not Administred to any of them, neither were they called.

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Being Asked, If there were not divers Scotiſh Papiſts there?

He Anſwered, Yes; divers Gentlemen of good Quality: and he named ſome of them, *viz.* Sir *William Hamilton*, &c.

Being Asked (on the Earl of *Clare*'s motion) Whether the Refuſers fled into any part of *Scotland*?

He Anſwered, in Truth, not to his knowledge; but they fled out of the Kingdom of *Ireland*.

The *Oath* was next Read, *viz.*

I N. *do faithfully Swear, Profeſs, and Promiſe, that I will Honour and Obey my Sovereign Lord King* CHARLES, *and will bear Faith and true Allegiance to Him, and will defend and maintain His Regal Power and Authority; and that I will not bear Arms nor do any Rebellious or Hoſtile Act againſt Him, or Proteſt againſt any His Royal Commands, but ſubmit my ſelf in all due Obedience hereunto: and that I will not enter into any Covenant, Oath, or Bond of Mutual Defence, or Aſſiſtance, againſt all ſorts of perſons whatſoever; or into any Oath, Covenant, or Mutual Defence, or Aſſiſtance againſt any perſon whatſoever, by Force, without His Majeſty's Soveraign and Regal Authority. And I do renounce all Covenants, contrary to what I have Sworn and Promiſed. So help me me* God *in* Chriſt Jeſus.

Mr. *Maynard.* Whence Mr. *Maynard* obſerved, from theſe words, *That they ſhall not Proteſt againſt any of His Majeſty's Royal Commands.* That he believed all Men were ſatisfied, that His Majeſty never did, nor will Command any thing unlawful, but what a ſubordinate Miniſter may Command in His Majeſty's Name, and publiſh, as His Command, in *Ireland*, their Lordſhips have heard enough of, and that may make them tender to take the Oath; beſides, the Oath being new, it is conceived to be againſt Law.

Mr. Maxwell. Mr. *Maxwell* being Sworn, and Interrogated, In what manner were Gentlemen ſent for to *Dublin* about this matter? And what he knew in particular about it?

He Anſwered, that he was one that received a Letter from my Lord Lieutenant upon that account; and that he, as well as the reſt, were required to be all at *Dublin* at a certain day; and, being there, and my Lord *Mountgomery* being a little ſick, and not able to go abroad, deſired their excuſe for a day or two. My Lord-Deputy was pleaſed to give Command, that all that were writen for, might be at my Lord *Mountgomery*'s Lodging: And, at the time appointed, my Lord-Lieutenant came, and at his coming he called them together, and ſhowed the Diſſenters in *Scotland*, and deſired that they would ſhow themſelves Faithful and Loyal Subjects to their Maſter; and, that it behoved them, as their own deſire, to Petition for it; whereupon my Lord Biſhop of *Down*, *Raſſo*, and ſome others of the Clergy being there, did ſecond my Lord's Speech, and told them, That as they Rebelliouſly

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belliouſly proceeded in *Scotland*, in that the *Scots* had taken in hand againſt the King; ſo they would do well by Petition, and by Oath to his Lordſhip and the Council, to ſhew their willingneſs towards their Maſters Service: So my Lord-Lieutenant was pleaſed to take hold of my Lord *Down*'s Speech; and my Lord *Down* deſired, he might be the drawer of the Petition. But my Lord perceiving him a little too vehement, told him, ſmilingly, That he would recommend him to the Biſhop of *Raffo*: So the Biſhop of *Raffo* was appointed for the drawing up of that Petition. The next day they deſired to peruſe the Petition, before it went to my Lord; and, after they had peruſed it, they went to my Lord-Lieutenant with it; after he had ſeen the Petition, he mended ſomething in it; and, among the reſt, he remembers, the Biſhop of *Raffo* told him, That my Lord had put in, *That theſe that are here ſhould be of no worſe condition, then the reſt of His Majeſty's Subjects.* The next day the Petition was Ingroſſed, and Signed by them, and preſented to my Lord-Lieutenant: Afterwards there were two Noblemen, two Biſhops, two Gentlemen, appointed to go to my Lord concerning the Oath, and they deſired a Copy of the Oath. My Lord-Lieutenant ſent Sir *Paul Davies* out to my Lord *Mountgomery*, and it was Read to them all; and they were commanded to attend at the Council-Table, and my Lord gave them the Oath.

Sir *Hen. Spottewood* was offered a further Witneſs, but their Lordſhips being ſatisfied with what was formerly offered, ſpared his Examination.

Mr. Whitlock.

And Mr. *Whitlock* obſerved, That they did produce theſe Witneſſes the rather, becauſe my Lord of *Strafford* ſays, in his Anſwer, they willingly came to *Dublin*, and were Suitors for the Oath. Whereas my Lord ſent for them; when they were there, my Lord perſwaded them; threatned them; contrived the Oath himſelf; altered the Petition; appointed who ſhould draw it; which diſproves what is in his Anſwer alleadged.

To prove, That becauſe divers of the Scotiſh Nation were tender, and loath to take the Oath, or ſubmit to all the Commands of my Lord of *Strafford* (though they would to the King's) they fled the Kingdom, and left their Eſtates.

Sir John Clotworthy a Witneſs.

Sir *John Clotworthy* being examined to that particular;

Anſwered, That he could ſpeak to this particular clearly to his own Knowledge; for then my Lord was pleaſed to inſert him as a Commiſſioner in the ſaid Commiſſion, and he was there ſometimes, and beheld the Execution of it. He did likewiſe ſee the Multitude (when the Oath was generally preſt on ſeveral Commands from my Lord-Deputy to enforce it) did leave their Dwellings, and Habitations, their Corn on the Ground, and their Cattle, and fled away; but, whether into *Scotland*, or no, he

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he could not preciſely ſay; but ſo it was reported: but, that Multitudes went away, he knew to be certainly true.

Being Interrogated, Whether my Lord of *Strafford* did, by his *Inſtructions*, deny liberty to the parties to whom it was tendered, to peruſe the Oath?

He Anſwered, That he cannot preciſely charge himſelf with it, for the *Inſtructions* are out of the way; but that was (as he verily remembers) part of the *Inſtructions*, That they ſhould have the Oath Read over to them, but no Copies delivered to them at all.

Being Asked (on my Lord of *Strafford*'s motion) Whether the *Commiſſion* and *Inſtructions* were not under the Hand of the Council, as well as himſelf?

He Anſwered, That he never ſaw a *Commiſſion* under the Hand of the Deputy or Council, but under the Seal; but the *Inſtructions* were under the Hand of the Deputy and Council.

Mr. Witlock. And Mr. *Whitlock* obſerved, That my Lord of *Strafford* drew in the reſt to himſelf.

Mr. *Whitlock* then proceeded to the matter of the Sentence, againſt *Stuart* and *Gray*, who were Impriſoned, Fined five times more than the value of their Eſtates; detained in Priſon a very long time, very hardly and cruelly uſed; and, on this Sentence, were the words ſpoken by my Lord of *Strafford*, which ſhows his Rancour to the Scotch Nation.

Mr. Salmon Witneſs. *Richard Salmon* Sworn, and Interrogated, What he knew concerning the centencing of *Stuart*, his Wife and Daughters, and *Gray* in *Ireland*?

He Anſwered, That on the 10*th* of *October*, 1639. after the King's Attorney, Sir *George Ratcliffe*, and many other Lords and Noble Men, had given their Sentence concerning this Oath, many of them pleading to make it High-Treaſon; and, that it was a merciful proceeding againſt Mr. *Stuart*, his Wife, and two Daughters, and *Gray*, in that Court: My Lord Primate came to ſhew, that if it had been againſt the firſt part of the Oath (*to deny Allegiance and Supremacy to His Majeſty*) it had been ſo: but being againſt the ſecond part, they were to be Judged in that Court. My Lord of *Strafford* told my Lord Primate, he was miſtaken, and that the Biſhop of *Derry* had ſaid well, in that they would not Abjure all other Oaths, Bonds, Covenants whatſoever, it was as palpable High-Treaſon, as if it were againſt the firſt part of the Oath. Thereupon my Lord ſaid, Theſe people are mad: and I know not how to expreſs my ſelf, without going beyond my ſelf, they have almoſt made me loſe my ſelf. But, ſays he, Mr. *Stuart*, now you have heard my Lord Primate thus much, What can you ſpeak for your ſelf? Mr. *Sturrt* Anſwered, He was willing to take the firſt part of the Oath; but, in

in that the Oath ſeemed to bind them, not only in point of Allegiance and Supremacy, but likewiſe in point of Eccleſiaſtical Duties, therefore he durſt not take it: My Lord told him again, he (the ſaid Mr. *Stuart*) was not miſtaken, but had judged right; the Oath was not only intended to bind them to Allegiance and Supremacy, for that they had other Oaths, but likewiſe to be obedient to the Eccleſiaſtical Ceremonies of the Church, either eſtabliſhed, or that ſhould be eſtabliſhed by His Majeſty's Royal Command: and, that whoſoever would be obedient to the Eccleſiaſtical Orders of the Church, he would lay his hand under their feet to do them good; but, whoſoever would reſiſt, he would proſecute them to the Blood. *Article* 19.

Being asked (on the Earl of *Clare*'s motion) Whether he be a Miniſter?

He Anſwered, That he had Taught School in *Dublin*, but hath not taken Orders.

Being Asked, What other Orders my Lord of *Strafford* let fall, concerning the *Scotiſh* Nation being Rebels.

He Anſwered, He remembers my Lord ſaid, They had cauſed him to forget himſelf. He ſaid alſo, That they were Traitors and Rebels: and that if His Majeſty would honour him ſo much, as to ſend him back again, he would eradicate root and branch even all of that Nation out of the Kingdom of *Ireland*, ſaving ſuch Lords and others that had taken the Oath.

Being Asked, What Fines were impoſed on *Stuart*, and the reſt?

He Anſwered, (To the beſt of his Remembrance) it was 5000 *l.* on him, 5000 *l.* on his Wife, 3000 *l.* a piece on his two Daughters, and 3000 *l.* on *James Gray*.

Being Asked, Whether they were worth theſe Sums?

He Anſwered, That it is not known to him: but, he conceives *Gray* was not worth a hundred pounds; for he lived on the maintenance of Mr. *Stuart* in the Priſon; and he knows not whether they paid any thing of the Fine, or no.

But Mr. *Whitlock* obſerved, That *Stuart* was fain to ſell his Eſtate to pay his Fine.

John Loftus being Sworn, and Interrogated, Whether he was preſent at the Sentence againſt Mr. *Stuart* and the reſt? And what it was? *John Loftus* a Witneſs.

He Anſwered, He was in *Dublin*, when Mr. *Stuart*, his Wife, and two Daughters, and *James Gray*, were brought by the Serjeant at Arms from their Houſe to *Dublin*, where they remained Priſoners in his Cuſtody, and were thence carry'd one by one to Mr. Attorney, and Sworn by him; and after their Examinations taken,

Article 19.

ken, were called on to the Court of *Star-Chamber*, and proceeded againſt *Ore tenus*. At which hearing, he (the *Deponent*) was; And, after the reſt of the Lords had delivered their Opinions, he heard my Lord-Deputy deliver his likewiſe; and his in ſubſtance was; He conſented in fine, to that the Lords had laid before, *viz.* 5000 *l.* on *Stuart*, 5000 *l.* on his Wife, 2000 *l.* a piece on his Daughters, and 2000 *l.* on *Gray*: and my Lord expreſt himſelf, That he wanted terms to ſet forth the heinouſneſs of this Cauſe; and, that he was to leave his Sword; but if it pleaſed His Majeſty to return him thither again, he hoped to have ſuch as would not conform themſelves to the Diſcipline of the Church, rooted up Stock and Branch.

Being bid to repeat his Teſtimony,

He ſaid, He declared he was then to leave his Sword, and if His Majeſty would return him thither again, ſuch as would not conform themſelves to the Government of the Church, who were of the Scotiſh Nation, *He hoped to root them up Stock and Branch*, or words to that effect.

Mr. *Whitlock*.

Mr. *Whitlock* did then Sum up the Evidence; That he conceives it proved, that my Lord of *Strafford* contrived the Oath; ſent for them of the *Scotch* Nation by Letter, and then wrought with them to make it their own Work, and Suit (though it was his Command) and, by threats to ſome of them, that did but deſire to conſider of it: That divers of the *Scotch* Nation being tender in their Conſciences to take the Oath, it being a new Oath, and tendered without *Authority of Parliament*; and ſo, rather than they would take it, were forced to leave their Habitations, their Corn ſtanding, with all their Goods and Fortunes, and to fly out of the Kingdom: That Mr. *Stuart*, his Wife, and Daughters, and one *James Gray*, were Sentenced very deeply for refuſing this Oath; and, that my Lord of *Strafford* declared, That this Oath extended to the Ceremonies of the Church Eſtabliſhed, and to be Eſtabliſhed; That the *Scotch* Nation were Rebels and Traytors; not going to any particular Man, but the Nation in general. And that if His Majeſty would ſend him back again to that Government, he would root them out Root and Branch.

This is to take a Power far above the Law; this is to bind their Conſciences by an Oath, and to force them to that which they are tender of; the Execution of this with ſo much rigor and cruelty, ſhows the ſtrength of My Lord of *Strafford*'s deſign to alter the Laws, and to do it with a ſtrong hand, with all his Force, and with all this Cruelty. And ſo my Lord of *Strafford*'s Anſwer was expected.

Defence.

And then my Lord of *Strafford*, after a little reſpite, began to make his Defence, in ſubſtance as followeth;

E. of *Strafford*.

That almoſt every new *Article* ſets forth a new Treaſon, that (for his part) he never heard of before: but, for this, that is now the Treaſon, and concerns the Adminiſtring of an Oath to ſuch of the *Scotch* Nation as were in *Ireland*. He, the Defendant, beſought their Lordſhips in the firſt place,

to

to take into conſideration, the time when this Oath was Adminiſtred becauſe of ſomething elſe, that in the Concluſion, for his further Juſtification, he ſhall be bold to offer to their Lordſhips; but, he will begin with that which is matter in hand; which, though he cannot ſay was the true reaſon, that made him firſt think of it; yet was a ſufficient reaſon of it ſelf. if there had been nothing elſe. *Article* 19.

The *Proclamation* for this matter he remembred was dated 20*th* of *May*, 1639, and, in what condition the King's Affairs then ſtood, their Lordſhips, and my Lord Steward in particular, who was General, are very well able to call to mind, and what fears there were of the ill events of the things then in hand. The apprehenſions were, That the *Scots* being a great Body in *Ireland* (and not ſo few, he is perſwaded, as 100000, by reaſon of their nearneſs to their own Countrys confining upon it) might, perhaps, have Intelligence and Occurrence with their Countrymen, called, *Thoſe of the Covenant*. And, this was the ſenſe of all that were Miniſters of that State under the King, as well *Engliſh* as *Iriſh*, and even thoſe of their own Nation. Thereupon they entred into Conſideration, how to ſecure that Kingdom, and ſettle things in quiet.

Beſides, there was a Man afterwards Condemned of Treaſon, for having a Plot and Deſign to have ſeized *Knock-Fergus*-Caſtle, and delivered it to a great Man in *Scotland* (whom my Lord ſaid he would not name) for which he loſt his life afterwards.

Theſe particulars were confirmed by ſeveral Witneſſes.

And, to prove that there was a Debate at Council-Board, for preventing of theſe Inconveniencies, my Lord of *Strafford* deſired ſome Privy-Counſellors of *Ireland* might be examined.

Robert Lord *Dillon* being asked, Whether he and the State of *Ireland* were not very apprehenſive of the danger, that might happen to the Kingdom of *Ireland*, If the *Scots* ſhould declare themſelves any way to the diſquieting of that Kingdom? *Robert* Lord *Dillon* Witneſs

He Anſwered, That about that time there were ſome Advertiſements out of the North, of particular Meetings, and Contrivances of ſome Plot or other by the *Scots*, which made the State very apprehenſive, that there might be danger enſuing, and that the conſequence would be ill.

Being Asked, Whether there was not a courſe taken upon that for an Oath, to ſecure the quiet of the Kingdom?

He Anſwered, It was debated at the Board, and concluded, That it would be a great Security and Obligation on thoſe of the *Scotch* Nation in *Ireland*, to keep them from Treating or Concluding any thing together, if there ſhould be any Invaſion.

Being Asked, Whether it was not thereupon reſolved, To Conſult the Principal Gentry of that Nation, and to ſpeak with them? and, Whether my Lord of *Strafford*'s Letters were ſent in purſuance thereof?

Article 19.

He Anſwered, That he thought the Letters were ſingly ſubſcribed by the Lord-Deputy himſelf, but it was alſo with the privity of the Council.

Manwaring. Sir *Philip Manwaring* being Asked to the ſame Point, Anſwered, That at the time the *Proclamation* Iſſued, he was in *England*, which was the 16*th* or 20*th* of *May*; But, before he came from *Ireland*, there were very many Apprehenſions, that Inconveniencies might ariſe, and many Conſiderations in Council, which way to prepare and prevent them.

Sir *Adam Loftus* a Witneſs. Sir *Adam Loftus* being Interrogated to the ſame Point?

Anſwered, That there were at that time ſome Apprehenſions and Fears of Danger, that might ariſe from the People of the *Scotch* Nation, in reſpect of their numbers there, leſt they ſhould adhere to them of the Covenant of *Scotland*, and thereby endanger the Kingdom of *Ireland* at that time: And therefore it was debated at the Council-Table, That ſome Oath or Bond might be made, that might divert them from joyning in the *Scotch Covenant*; and thereupon it was reſolved, That the Principal Noblemen, and Gentlemen of *Scotland*, that were then in *Ireland*, ſhould be ſent for, and there dealt withal, both to expreſs their Loyalty and Service to the Nation of *Ireland*, by their due obedience, and alſo to offer ſome Means that might be Security to the King and themſelves.

And being further Interrogated, Whether my Lord of *Strafford*'s ſending for theſe Principal Gentry of the *Scotch* Nation, was not with the Privity of the Council?

He Anſwered, That he thought it was: And added, He was very confident it was, though the reaſon was not expreſt in thoſe Letters.

Maynard. Being Asked (on Mr. *Maynard*'s motion) Whether he was there, when my Lord *Mountgomery*, and Sir *James Mountgomery* made Exception to the Form of the Oath contrived?

He Anſwered, He was not preſent at any Exceptions taken at it.

Whitlock. Being Asked, (on Mr. *Whitlock*'s motion) Who were thoſe that took it ſo chearfully? And whether the Biſhops were not more chearful than other?

He Anſwered, That indeed he obſerved no Reluctancy.

E. of *Strafford.* My Lord of *Strafford* here added, That he ſpeaks it truly (to the honour of that Nation be it ſpoken) the Oath was taken with much chearfulneſs, and not any Man made ſcruple in the whole buſineſs, to his underſtanding, ſave only Sir *James Mountgomery*, but took it with all the readineſs in the World. This is as true as he lives, and he thinks he ſpeaks it for their honour; And, were he one of the Temporal Men in that kind, he ſhould be very unwilling

unwilling to be asked, Whether the Biſhops had been more ready to give Allegiance to His Majeſty, than himſelf? and he thinks, he that asked the queſtion, doth them a great deal of prejudice in it. *Article 19.*

Finding them thus prepared, he was glad of it; and they being willing to prefer ſuch a Petition, he went to them, and ſerved them with all willingneſs, as he had reaſon.

The Petition was chearfully brought to him to be looked over, and to have his opinion how he liked it. It was brought him by my Lord *Mountgomery*, Sir *James Mountgomery*'s Brother, and ſome others, whom he remembers not. But theſe words he remembers particularly in it: *An offering of their Lives and Fortunes, for vindicating the Authority of Regal Power*, which he ſaid was too general; and though they intended it well, might be turned too ſtrictly on them, and therefore he deſired, it might be qualified in theſe words, *In equal manner and meaſure with other His Majeſty's Subjects*; and the words were put in by him, as he is ſure, my Lord *Mountgomery* would juſtifie.

The Petition was read, and the Act of State, wherein it is recited, being in ſubſtance as followeth.

By the Lord-Deputy and Council,

WENTWORTH.

Where we have lately made an Act of Council in theſe words.

WHereas divers Lords Spiritual and Temporal, Knights, and others inhabiting in this Kingdom, have lately exhibited a Petition to us, in theſe words following.

To the Right Honourable, the Lord-Deputy and Council, &c.

The humble Petition of, &c.

The Petition recites,

The Horror apprehended by the Petitioners, His Majeſty's Subjects of the Scotiſh Nation inhabiting in *Ireland*, for the Covenant Sworn by ſome of their Countrymen in *Scotland*, without His Majeſty's Authority and Conſent;

Their diſlike thereof, and their conſideration, that the cauſes of that action may be underſtood, to reflect on the Petitioners, though innocent.

They crave leave to vindicate themſelves from ſo great a Contagion, and deſire his Lordſhip to preſcribe a way by Oath or otherwiſe, to free themſelves from theſe proceedings, to declare their acknowledgement of the King's Regal Power, and their diſlike of that Covenant, and of all other Covenants entred into, *&c.* without His Majeſty's Regal Authority, which they are deſirous to manifeſt by offering their lives and fortunes, to vindicate

Article 19.

dicate the honour, &c. of their Sovereign, which they are ready to do in equal manner and measure, with other His Majesty's Subjects, &c. and divers names were to the said Petition subscribed.

In consideration of which Petition, we cannot but commend the wisdom of the Petitioners, which we will not fail humbly to represent to His Majesty; and for that we know many of this Kingdom, have expressed good affection to His Majesty and His Service, and dislike those Disorders: We hold it fit, &c. to free them the better from the Crimes and Scandals which their Country-men have gone into, as also to free them from all prejudice, and to approve to the King, and to the whole World, their Allegiance to him and His Regal Power, and the dislike of that unlawful Oath and Covenant: We do therefore ordain, That all and every Person of the *Scotch* Nation, that inhabit, or have Estates, or any Houses, Lands, Tenements, or Hereditaments within *Ireland*, shall take the Oath herein expressed on the Holy *Evangelists*, on pain of His Majesty's High displeasure. The tenor of which Oath follows, &c. To several select Persons, &c. Authorizing them to call before them, and administer the Oath to every Person of the *Scotch* Nation, &c. At such time and place &c. And such Instructions as shall be in that behalf given by the Deputy and Council, &c. And to certifie the names of all that take the Oath, and if any refuse to certifie their Names, Quality, and Residences to the Lord-Deputy, &c. And there is a command, that all of the *Scotch* Nation do appear before the said Commissioners, at times by them to be appointed, and to take the said Oath before them; and that all Persons may have due notice, we think fit this be published, Dated *May* 1639.

To prove a design of seizing the Castle of *Knock-Fergus*, my Lord of *Strafford* desired Mr. *Slingsby* might be examined, and being Interrogated?

Mr. *Slingsby* a Witness.

He Answered, That about the time, when it was supposed the King was in the Field of *Berwick*, there was an Advertisement from *Knock-Fergus*, that one *Trueman* had writ a Letter, for betraying of the Castle there; the party that sent the discovery was to be employed in the Letter, and he informed, there were the hands of Twenty that should have subscribed it, the Letter was conceived to be voluntarily from *Trueman*, and not sollicited out of *Scotland*.

Trueman a Witness.

Trueman was sent to *Dublin* and examined, and sent back to be tryed in the Country, and there he received his Tryal, and was Hanged, Drawn, and Quartered.

Being Asked of what Nation he was?

He says, He doth not know of what Nation, but he supposes he was an *Englishman*.

For his further justification, he saith, at the same time there was the like Oath, and Proceeding here in *England*.

The

Atricle 19.

The Copy of which Oath now read, being affirmed by Mr. *Ralton* to be a true Copy.

5 *June* 1639. A Copy of an Oath tendered to ſome of the *Scotiſh* Nation, reſident here in *England*, as it is entred in the *Scotiſh* Book, being in ſubſtance,

IN. *Do faithfully Swear, Profeſs, and Promiſe, that I will faithfully Obey my Soveraign Lord King* CHARLES, &c. *and defend and maintain His Royal Authority; and that I will not bear Arms, nor do any rebellious Act againſt him, nor profeſs againſt any His Royal Commands*, &c. *And that I will not enter into any Covenant or Bond*, &c. *Of mutual Defence or Aſſiſtance againſt any Perſon*, &c. *or into any Covenant, Bond of mutual Defence or aſſiſtance whatſoever, without His Majeſty's Sovereign and Regal Authority. And I do renounce and abjure all Covenants, contrary to what is here Sworn, Profeſſed, and Promiſed.*

And he ſubmits to their Lordſhips Wiſdom and Juſtice, what Offence this had been for a Deputy of *Ireland* in a time thus conditioned for ſecuring the publick Peace of that Kingdom, where he ſerves the Crown upon ſuch apprehenſions as theſe, fairly without any conſtraint or violence offered, to endeavour by ſuch a manner of means as this, to ſecure the King of the Royalty and Allegiance of His Subjects. To procure it to theſe ends, by theſe ways, at ſuch a time, how can this be ſtrained to be High-Treaſon, he confeſſes he does not well underſtand; eſpecially, ſince he is confirmed in that Opinion, by the allowance given of it here in *England*, as, by the Oath read appears; And if all this had been done by him ſolely as Deputy, by the power of that Commiſſion he had from His Majeſty, where ſhould be the Crime that ſhould riſe ſo high, as to convince him of Treaſon? But that is not all, he hath ſomething elſe to ſay for himſelf, and that is, the King's Letter of His Majeſty's own Hand-writing, as followeth.

WENTWORTH

Article. 19.

WENTWORTH,

Conſidering the great number of Scots *that are in* Ireland, *and the dangerous conſequences may follow, if they ſhould joyn with the Covenanters in* Scotland; *I hold it neceſſary you ſhould uſe your beſt endeavour, to try them by an Oath, not only to diſclaim their Countrymens proceedings, but likewiſe, never to joyn with any in Covenant, or otherwiſe againſt Me, to which purpoſe I Command you, to frame and adminiſter ſuch an Oath, to the aboveſaid intent, to my Scotiſh Subjects of that Kingdom, that I may know the well from the ill-affected of that Nation, of which fail not, as you love my Service. And ſo I reſt, Your aſſured friend,* Ch. R.

Dated 16 Jan. 1638. Whitehall.

So he had His Majeſty's Warrant, but handled the matter ſo, that he never diſcovered it.

And this he conceives doth clearly juſtifie him in all his proceedings. That none can adminiſter an Oath, but by Authority of an Act of Parliament, is, as he conceived, an ignorance; And that upon a Command, and being not againſt Law, but intended for the better preſervation of the peace of the Kingdom; a Deputy of *Ireland* might do it: and if he hath failed, he ſhall not willingly undergo any puniſhment, ſince it was an Act of Obedience, and if it were to do again (being informed as he then was) he muſt obey, and he had rather ſuffer in obeying His Majeſty, than diſpute with His Commands in that kind.

And ſo he hoped, that for the Oath and Proclamation, he had ſaid that which might acquit him before their Lordſhips.

Then his Lordſhip applyed himſelf to give an Anſwer to the other matters, brought in his Charge, and the next thing urged againſt him is, the Cenſure of Mr. *Stuart*, his Wife, and Daughters, and *Gray*.

That Sentence was the very day before he came from *Ireland*, *Michaelmas* was Twelve months.

To that he can ſay no more, but that he delivered his Opinion concerning them, as the reſt, in the *Caſtle-Chamber*, where the Deputy hath no more Voice, than ſuch as my Lord-Keeper hath in the *Star-Chamber*, a Caſting Voices, if the Voices be equal, and otherwiſe but a ſingle Voice; and the truth is, that the whole Court did agree in it.

And for their Fine, one of their own Witneſſes ſays, That he delivered his Opinion, as concurring with the reſt of the Court; ſo that the Fines were ſet before it came to him to Vote. And the greatneſs of the Fine, was only to ſhow the greatneſs of the Offence, and not with reſpect to the perſons, or with any purpoſe to take the Fines of the parties; for when it ſhall be examined, it will appear, that little of that hath been paid or looked after, for they might have had their pardon the next day, if they would have

have taken the Oath; And if he that ſhall refuſe the Oath of Allegiance, ſhall inſtantly incur the penalty of a *Præmunire*, the Fine was very moderate in the caſe. *Article 19.*

In the Oath there is nothing of Eccleſiaſtical buſineſs, but only a Temporal Allegiance, though ſome of the Witneſſes ſpeak of the extending it to the Eccleſiaſtical affairs.

My Lord Primate ſhould have been a Witneſs in the Cauſe, but he is ſick, and therefore if it may well ſtand with their Lordſhips Favour and Juſtice to defer this point, till he may be examinad, and heard about it.

The next thing was the words charged upon him, ſpoken at the ſame Sentence, *That the Scotiſh Nation were Rebels and Traitors, and that he would root them out of the Kingdom, root and branch.*

Theſe words he abſolutely denied, and ſo under favour, he ſaid, he muſt do ſtill, being well aſſured, he never ſpake them; and he is privy to his own heart ſo far, that he can as truly ſay, he never thought them. He knows very well what he owes to that Nation, as being the Native Country of His Majeſty; and that reſpect, if there were nothing elſe, is ſufficient for him to wiſh to it all Happineſs and Proſperity, which he doth from his heart.

Beſides, he knows there be many of that Nation, moſt Faithful and Loyal Subjects, he truſts there are few among them otherwiſe; and therefore for him to ſay, The whole Nation are Rebels and Traitors; certainly were a Speech of a man frantique, and out of his wits, rather than of a man in his Senſes: For though he hath ſome infirmities, of haſtineſs in him, yet he is not ſo diveſted of Reaſon and Underſtanding, as to ſpeak like a mad-man, eſpecially in things of this nature.

His Lordſhip repeated it, that he never ſpeak them, never thought them, nor ever wiſhed any thing to that Nation, but Honor and Hapineſs in all his life; nor hath he any manner of particular exception againſt them, either in general or particular, Beſides, he never received perſonal wrong from any of that Nation; he hath received many courteſies from ſome of them, and therefore owes them no Animoſity, but all the reſpects in the world.

But when it comes to the Proof, that is ſufficiently juſtified, for nothing is proved of that they Charge him with and when he hath ſhown the weakneſs of the proof offered to convince him of them, he ſhall offer a Witneſs or two, that will abſolutely clear him. Nor did he ſpeak any thing whilſt he was in *Ireland*, concerning the Nation in general, but whatſoever he ſpake, was concerning the *Faction* in it; and it is an eaſie matter for a man at a diſtance, to miſtake own word for another; and when he ſpoke of the *Faction* there, it was with a great deal more moderation, and better phraſe than the words Charged.

For Sir *James Mountgomery*, he hath ſaid little as to this matter, for he was not there, nor ſpeaks at all, as if He (the Lord of *Strafford*,) ſhould have carried himſelf in that buſineſs, otherwiſe than became him; only himſelf confeſſes when Sir *James* would have ſome words put into the Oath (*Of lawful and juſt Commands*) He (the Earl of *Strafford*) ſaid, That that was needleſs, for they could expect no Commands from His Majeſty, but what were lawful and juſt, and ſuch is the Wiſdom and Juſtice of the King as he dares ſay they will always be ſo; and the words of the Oath are, *They ſhall be ſo far complying with theſe Commands, as in due obedience they are bound and obliged to be.* So it was not *Cæca obedientia.* Sir *James*, ſays,

Article 19. That he (the Earl of *Strafford*) did adminiſter the Oath. This one ſingle Teſtimony; but to tell their Lordſhips plainly the truth he confeſſes he did give that Oath, being not only obliged by the Council, but they directing him, and that the Petition was not got forcibly from them, it appears evidently, for there is nothing againſt it.

Sir *John Clotworthy* ſays, That on this Oath adminiſtred, great multitudes went away, but he names not one of that Multitude, and if they did go, who could help it? if they would go away, rather than give ſuch a pledge of their Allegiance, he ſhould have been loth to have reſtrained them to make them ſtay againſt their Wills.

For the Inſtructions that went with the Commiſſions, Sir *John Clotworthy* very truly ſays, they were under the hands of himſelf and all the Council, but what theſe Inſtructions, were, he cannot expreſly ſay; and that under favour, he conceives it no witneſs, and ſo is no Charge on him.

But to Expreſs his rancor againſt the Scotiſh Nation, next come the words proved by *Richard Salmon* the Schoolmaſter, and he Swears poſitively and directly, that he (my Lord of *Strafford*) ſpake theſe words the 10*th* of *October* 1639. The plain truth is, that he (the Earl of *Strafford*) was come into *England* in *September* before; and if that man ſhall notwithſtanding, undertake poſitively to ſwear that undividual day, he is leſs to be credited. The ſaid time of his coming into *England* was confirmed by too Witneſſes.

Little, a Witneſs. Mr. *Thomas Little* being (upon my Lord of *Strafford*'s motion) asked, about the time of my Lord of *Strafford*'s coming from *Ireland*.

He Anſwered, That my Lord Lieutenent came from *Ireland*, Thurſday 12 *Sept.* 1639. and landed the next day, and came to *London* 21 *Sept.* 1639.

Ralton. Mr. *Ralton* being examined to the ſame point.

Anſwered, He verywell remembered my Lord came to *London* 21 *Sept.* 1639.

For the words themſelves, *That the Scotch Nation are Rebels and Traitors, and that he will root them out Root and Branch*, The Witneſs is a ſingle Teſtimony; their Lordſhips ſee how true he is in the firſt part of it, and he is equally true in the ſecond.

The other Teſtimony is one *John Loſtus*, and he ſays my Lord of *Strafford* wanted terms to expreſs the heinouſneſs of that offence, and he hoped to have ſuch of the Scotch Nation, as would not ſubmit to the Eccleſiaſtical Government, rooted out Stock and Branch from that Kingdom, And this (ſaid my Lord) is quite another thing, and no way agreeing; with the former, but nearer the truth, and far from rooting out the Scotch Nation; for there are but few that ſubmit not to the Engliſh Church-Government.

So there is left only one ſingle Teſtimony of the Schoolmaſter, that hath not learned their Leſſon perfectly, but is taken tardy, as if he were a Scholar; and the other makes it quite another buſineſs: And as they have offered theſe things, and have not proved them, by more than one ſingle teſtimony, and he a very infirm one, He, my Lord of *Strafford*, beſought their Lordſhips

Lordſhips that he might call for a Witneſs or two, that were there, and heard all that paſſed, *Article* 19.

Sir *Philip Manwaring* (my Lord ſaid) was a Judge of the Court, and nearer him than the Witneſs, and likely to hear more diſtinctly:

Sir *Philip Manwaring* Witneſs.

Sir *Philip* being asked what the words were, and of what nature they were, whether they were not reſtrained to the *Faction* of the Covenanters, and them that would not take the Oath in *Ireland*, and not the Nation it ſelf?

He Anſwered, That he was preſent that day, and ſate within the Court, and within hearing, ſo that he heard every word that fell from my Lord Deputy: it is true, his Speech there was very long, but he ſhall repeat no more of it, than that he conceives pertinent to the preſent occaſion, that is, Whether he ſhould ſay theſe words *Againſt the whole Nation*, or ſpeak only to the *Faction*, and properly, and pertinently, ſhun the word *Nation*. It was on the occaſion of Mr. *Stuart*, who ſtood as the Bar with his Wife and Daughters, and *Gray*; My Lord telling him he was ſorry, that bearing the name he did, he ſhould be the only man that carried himſelf with that diſobedience, and my Lord expatiated very much, and in concluſion ſaid,

That Scotiſh Nation (with reſpect I ſpeak of it) for I know there be among them gallant and worthy Perſons, and I have great experience of them, and of the Loyalty and Faith they bear to their Sovereign; but there is a *Faction* among them, which I ſhall endeavour, as near as I can, to bring to that obedience, at leaſt, to keep them that are within this Kingdom, to that Obedience, Loyalty, and Duty, that Subjects ought to bear.

Being Asked, Whether my Lord did not expreſs himſelf at that time, that he would not take on him to judge any thing of the Action in *Scotland*, not knowing the Law of that Kingdom; but ſuch of that Nation, as are here in *Ireland*? if they will not ſubmit to the Government of *Ireland*, he will do the beſt he can, they ſhall not ſtay here?

He Anſwered, That it is very true, my Lord Deputy did at that time ſpeak to that purpoſe, as near as he can remember in truth (*viz.*) That he did not know the Laws nor Cuſtoms of that Kingdom; therefore would ſay nothing to them; but for ſo much as concern'd the Kingdom of *Ireland*, and the keeping of the King's Subjects in Loyalty and Obedience there, he would do his beſt to preſerve that.

Being Asked (on Mr. *Glyn*'s motion) whether he heard theſe words *Root and Branch*, or *Stock and Branch*?

He Anſwered, In truth he did not.

Robert Lord *Dillon* Witneſs.

Robert Lord *Dillon* being asked as to the words ſpoken by my Lord of *Strafford* in the *Caſtle-Chamber* at the Sentence, and how he expreſſed himſelf concerning the Nation of *Scotland*.

Article 19.

He Anſwered, That he Confeſſes, it hath been his cuſtom (and it may be it is an ill one) never to mind the word ſpoken in the place, unleſs he ſuppoſes he ſhall be called to account for them: he remembers my Lord ſpake of the refuſing of the Oath, and of ſome rigor to them that ſhould refuſe it, but for particular words, he remembers not.

Sir *Adam Loftus* Witneſs.

Sir *Adam Loftus* being asked what he heard of theſe words?

He Anſwered, That he was at the Cenſure, but truly he cannot burden his memory with any the words that tend to this queſtion; It was a great while ago, and he little thought they ſhould come to any recapitulation of them, and in truth he doth not remember them.

Being asked whether *Stuarts* Sentence was not given by the unanimous Vote of the whole Council?

He Anſwered, Indeed he believes it was.

Sir *Philip Manwaring* Witneſs.

Sir *Philip Manwaring* being asked, what he heard the Maſter of the *Rolls* ſay that day?

He Anſwered, That coming from the *Caſtle-Chamber*, waiting on my Lord Deputy to the *Caſtle*, where many Dined, and all that had been Judges; and Mr. *Wainsford*, the Maſter of the *Rolls*, took occaſion to ſpeak to my Lord Deputy, in his (the ſaid Sir *Philip's*) hearing, and commended him for carrying himſelf with that caution, that he had no way reflected on the Nation, but the *Faction* in that Kingdom, and had ſhuned the words, which might reflect on the Nation.

And ſo his Lordſhips concluded his Defence, and ſaid, he hoped that there was nothing proved that ſhould touch him ſo deeply as Treaſon; for if the obeying of the Commands of this Caſe be ſo great a Crime, he muſt confeſs, if it were to do again (being not better informed by wiſer men tho' hereafter he may be better informed, and prevent it) he ſhould be that Traitor over again, and do the ſelf-ſame thing again: and therefore if he had done it out of ignorance, he hopes their Lordſhips will not look on him as having any evil intention or wicked purpoſe, but to ſerve His Majeſty with faithfulneſs, which he hopes will procure an eaſier Judgement from their Lordſhips, than to think of a High Treaſon in this Article.

Whitlock's Reply.

And then Mr. *Whitlock* made Reply thereunto, in ſubſtance as followeth.

That in his Anſwer to my Lord of *Strafford's* Defence, he ſhall begin with that, which his Lordſhip was pleaſed to mention laſt, and alſo at the beginning, *That this ſhould not be accounted Treaſon, he knows not the Illegality of it, and if it were to be done again he would do it on that Command.* Whence Mr. *Whitlock* obſerved, that his ſlighting, or rather juſtifying of this offence, when he is told in this great Preſence, that it is againſt

againſt Law, and will be made good, and appear to be againſt Law is a great aggravation of the offence. *Article 19.*

It is well known, that a new Oath cannot be Impoſed without Aſſent in Parliament. It is *legiſlativa poteſtas*; The Oath of Allegiance is as antient as our Allegiance, and nothing needed to have been added to that: And, had it been tendered to them, as it might have been by *Law*, this would have performed the King's Command, which, under favour, went no farther; and would have been ſufficient ſecurity of what was doubted and feared: But, My Lord of *Strafford* will go farther; the Oath that the Laws enjoyn doth not pleaſe him, he muſt have a new one framed by himſelf, and publiſhed by his Authority, thereby to make his Authority equal to an Act of Parliament.

Tis indeed believed, there were ſome apprehenſions of dangers in *Ireland*, by the great number of the *Scots* there, and a Covenant in *Scotland* then Sworn, but the Covenant is not to be medled withal now. The Charge enforced againſt my Lord of *Strafford*, is not his Care of preventing danger to the Kingdom, but that he cauſed a new and unuſual Oath to be Impoſed; and particularly, that they ſhould ſubmit to all the Kings Royal Commands.

The Committee confeſs, and think, no man had ever yet a heart to doubt, That the King would Command any thing that ſhould be againſt Law: But, it hath been ſufficiently proved, that my Lord of *Strafford* (a Subordinate Miniſter under the King) hath publiſhed his own Commands in the King's Name, which are not Juſtifiable, nor according to Law: And that, under favour, might be a good cauſe for the Scots, to be tender of taking his Oath; knowing, that theſe Commands here, were not His Majeſty's Immediate Commands, but the Commands of my Lord of *Strafford*, which they ſaw many times ſo unlawful and exorbitant.

My Lord of *Strafford* hath produced divers Witneſſes, to prove, It was Debated on at Council-Board; And, that the *Scots* did chearfully take the Oath; but, in this, he hath laboured to diſprove his own Anſwer, which is, that the Scots came up, and deſired to have an Oath; whereas it appears, the Council-Table thought fit to ſend for them by Letters, under his Lordſhips hand; and it was propounded to them to take ſuch an Oath.

He ſays himſelf put theſe words in the Petition; *In equal manner and meaſure with other His Majeſty's Subjects*: Which ſhews That my Lord of *Strafford* himſelf had the Peruſal and Correction of this Petition, which is a good Proof that he Contrived the Oath.

The Petition doth only beſeech my Lord Deputy, That an Oath might be framed to vindicate themſelves from the *Faction* of their Countrymen, and the *Covenant*, which they might have done by the *Legal* Oath, the Oath of Allegiance. But he put ſomething in above what they deſired, and that was, for ſubmiſſion to all the Kings Royal Commands: which may extend to Liberty, to Property of Goods, and ſo is a great deal further, than His Majeſty was pleaſed to Command by His Letter, wherein there were nothing but what was very fit to be commanded by my *Lord* of *Strafford*, and very fit for him to obey.

And what if my Lord of *Strafford* ſhould procure a Letter, from His Majeſty to do that, which is not warrantable by *Law*? the King's conſiderations are far above the particular Points of the Municipal Law of this Kingdom; He cannot know them, but is to be enformed of them by his Miniſters:

Article 19.

Miniſters: Now, if my Lord of *Strafford* ſhall miſinform Him, and deſire to have that by His Authority, which is not warrantable by Law, the fault is my Lord of *Strafford*'s; and, it much aggravates the Crime; but, the King's Letter doth not warrant my Lord of *Strafford*, for he hath proceeded further.

He ſays, concerning the Cenſure of Mr. *Stuart*, That he delivered his Opinion among the reſt: but, their Lordſhips may remember, he went as high as to charge him with Treaſon. It is true, the Biſhop of *Derry* conceived it might be Treaſon; and, the Primate ſaid, the Denial of the former part might be Treaſon, but not the Latter: But, my Lord of *Strafford* conceived the latter part to be Treaſon too: And therefore, ſurely, his Opinion had more harſhneſs and ſeverity then the reſt; and, being his Opinion, it was of ſufficient weight to carry along with him all the reſt; And, that which was his own Act at the beginning, which he Contrived and Treated with the Scotch Lords and Gentlemen, That he perſues in the Sentence; and, if others joyn with him in a hard Sentence againſt Law, his fault is not the leſs, but rather the greater, to draw others into the ſame fault.

His Lordſhip ſays little of the Fine that is paid. It is true, it cannot be proved how much was paid; but, thoſe that were Fined continued in Priſon till very lately for that Fine.

And, whereas he ſays, Any, taking the Oath, might have been Releaſed the next day. It is the more Cruelly done, to keep them in Priſon till they take an Oath, who cannot ſatisfie their Conſciences, that they may take it.

My Lord ſays, If one refuſe the Oath of Allegiance in this Kingdom, he ſhall incur a *Premunire*, and this Sentence was more moderate. Indeed if that had been tendered, they had incurred the like Sentence, and that might ſerve the turn; but, my Lord much ſtretch his power higher, and above the Law; He would frame a new Law; and for not obſerving that, a new Puniſhment too.

He, ſays There is nothing of the Eccleſiaſtical Diſcipline in the Oath: but, the Witneſſes expreſs it, that my Lord interpreted it, to extend to the obſervation of the Ceremonies, and Government of the Church eſtabliſhed, and to be eſtabliſhed.

His denial to ſpeak the words, *That he would root out the Scotch Nation*, doth not diſprove that, which is ſo clearly and ſtrongly proved by two Witneſſes.

He ſays, He ſhould be Frantick, if he ſhould ſpeak ſuch words: But one of the Witneſſes ſaid, He expreſt himſelf to be tranſported, and that he knew not what he ſaid in that Sentence.

He ſays, He never received wrong from that Nation, but Curteſies, then thoſe words ſhow the more Ingratitude.

He

Article 19.

He ſays, Sir *James Mountgomery* ſpeaks nothing that ſticks on him: It is true, he ſpeaks only to the Contravening of the Oath; but, he ſhows that to be expreſly otherwiſe, then in my Lords Anſwer.

He confeſſes he gave the Oath: But, whether he did or no, his Authority Injoying of it, would have been all one.

He ſays, Sir *James Mountgomery* deſired the words *Juſt and Lawful Commands*, might be added: and, that my Lord expounded it, no other were intended. But then there were no leſs reaſon to deny the inſerting ſome of them, for their ſakes that were tender, and deſired to have them put in, for their ſatisfaction.

He ſays, That Sir *John Clotworthy* depoſes, That Multitudes of the Scotch Nation went away; but, he names none: But, if Sir *John* be Asked, he will give very good ſatisfaction.

Sir *John Clotworthy* being asked to that Point?

He Anſwered, That he might eaſily, amongſt ſo great a Multitude, Remember ſo few names; and when he heard my Lord of *Strafford*'s Exception, Multitudes did throng in upon him, whereof he did now particularly name about ſix, and ſaid he could name a great many more.

Being Asked, concerning the Execution of *Trueman*, as a Traytor, for the matter of *Knock-fergus*?

He Anſweerd, That he was at *Knock-fergus* at the Aſſizes, when this Trial was concerning this *Trueman*; and was then on the Bench, and heard all the paſſages of the buſineſs; whereof he made this brief *Relation* as followeth.

This Trueman *was an* Engliſhman, *that dwelt not far from* Knock-fergus, *and one that was ſent about the Country; but, by whom, Sir* John *could not tell: but, there were vehement Suſpitions, that he was Imployed to find out thoſe that would engage in Diſcourſe concerning the Scotch buſineſs; he ſpake with one Captain* Giles, *who feigned himſelf a great Friend of the Scotch Nation; and ſaid, That he conceived they were greatly diſtreſſed; and wiſhed, that he could uſe meams whereby they might be eaſed. Hence he diſcourſed with* Trueman, *who was but a ſilly man, and got from him words, whereby he diſcoverred a good will to the Scotch Nation; and ſome diſcourſe about the Caſtle of* Knock-fergus; *inſomuch, That he got* Trueman's *Letter to recommend him into* Scotland, *whether he pretended a deſire to go and ſerve under that Command: Upon this he produced the Letter, and that was given in Evidence againſt him, and ſo he was Condemned and Executed.*

Mr. *Whitlock*.

Mr. *Whitlock* proceeded, and ſaid; My Lord alledgeth for his Juſtification, another Oath, enjoyned here to the *Scots*, by the Authority of the Council-Board; but, this gives no Countenance to that in *Ireland*; for the

Article 19. the Oath enjoyn'd, there was another after that, enjoyned by my Lord of *Strafford*: Therefore that which came firſt, can receive no colour from that which came laſt. And the Oath here being the ſame (as near as we can remember) with that in *Ireland*, was rather a Precedent for this. Howſoever, the Committee never heard that the Oath here, was executed, or enjoyned to any.

Though *Richard Salmon* was miſtaken, in point of time, of ſpeaking thoſe words of the Scotch Nation at the ſentence; yet, he ſpeaks to the ſubſtance and matter of the Sentence and Words, and it was when my Lord of *Strafford* was in *Ireland*: and though the name of the Month be miſtaken, it cannot weaken his Teſtimony; and my Lord of *Strafford* confeſſes he was at the Sentence, and the day before he came to *England*.

And, with him concurs, *Loftus* though not in Words, yet in Subſtance.

My Lord produced Witneſſes concerning theſe words. Sir *Philip Manwaring* affirms, my Lord ſaid, He was very ſorry *Stuart ſhould be the only Man*: yet, it is proved, that divers were brought to *Dublin*, and Impriſoned there; and many hundreds forſook the Kingdom, and left their Eſtates; therefore he could not be the only Man. But, though he and the rhe reſt remember not the words, yet if the Witneſſes produced do preciſely remember them, the forgetfulneſs of my Lord of *Strafford*'s Witneſs ſhall not at all Impeach the other.

So the Committee concluded thus; That it ſtands clear that my Lord of *Strafford* hath aſſumed a power to himſelf above Law to Adminiſter an Oath contrary to Law; a new Oath, to bind Mens Conſciences with great ſeverity. He ſaid formerly, He would make an Act of State equal to an Act of Parliament, and nothing can make an Oath but an Act of Parment; in this therefore he is as good as his word. This is an aſſuming of a Power above Royal-Power; for an Act of Parliament cannot be made, without the Three Eſtates, their Lordſhips and the Commons are Intereſted in it; for, this is not —— *Penes Poteſtatam miniſtri.*

Mr. *Maynard*. Mr. *Maynard* added, That ſome Exceptions had been taken againſt Sir *James Mountgomery*, viz. That he was ſcrupulous to the Petition, but not to the Oath.

Ny Lord of *Strafford* takes a Power to Adminſter an Oath. It is hard to lay ſuch bonds on any; but, to put it on general and ambiguous words is much harder: And, how far that may intrench on any Man, if for refuſing ſuch an Oath he ſhall be Sentenced in the *Star-Chamber*, more than he is ever able to pay, and more than my Lord of *Strafford* confeſſes he would expect payment of; this is ſo tranſcendent an Incroachment, that there cannot be a greater: for, it takes away Liberty of Conſcience, and endangers the whole Eſtate. And, the King's Letter doth not juſtifie the proceeding at all: for, had my Lord perſued that, and gon no farther, there had been no Complaint; for His Majeſty enjoyned him to take an Oath, that might diſtinguiſh one from another; but, doth not enjoyn to puniſh them that refuſed it: The Grievance is the Coertion of it; and ſo, under favour, It is no Juſtification.

Mr. *Stroud*

Article 23.

Mr. *Stroude* added, That my Lord of *Strafford*, at the end of his Speech, ſaid, If this were Treaſon, and the Occaſion offered, he would be ready to do it again. And Mr. *Stroude* ſaid, He muſt confeſs, he doth believe him: and, this makes him conſider a heavy thing that once befell this Kingdom; when *Gaveſton* came to over-act his bold offences, how heavy that befel the Kingdom, he leaves to their Lordſhips Conſideration. *Stroud.*

My Lord of *Strafford* deſired to clear this Point, and ſaid, The Gentlemen is a great way off him, and may eaſily miſtake; For he ſaid, *Were it again to do, being no better informed then he was at that time, he ſhould do it: But now he underſtands more then he underſtood before.* But, Mr. *Stroude* Anſwered, That under favour, he did not miſtake my Lord; for, he remembred, how fierce my Lord was upon an Oath in the Caſe of the Loan when he was a Commoner. E. of *Strafford.* *Stroud.*

My Lord of *Strafford* did here deſire a Motion or two:

The *Firſt* Importing, That he ſhould be very unwilling any thing ſhould befal him, that might be a prejudice to the Peerage of the Realm; and, out of the Duty he owes to that, he might crave leave humbly to inform their Lordſhips, That he hath a great Family in *Ireland*; his Wife and Children are there; that all he hath is Seized on: So that he hath not, as he proteſted (but as he borrowes it) money to buy Meat to feed himſelf here: And, how his Wife and Children, and Servants do in *Ireland*, he knows not; but, that they are under the Providence of Almighty God. That it is a heavy Caſe, that being Impeached of Treaſon (and Conſtructive Treaſon, he hopes, it will prove at the moſt) that he ſhould be thus uſed, being a Peer of the Realm, to have all that he hath taken in this ſort, and his Wife and Children, and Family thus unprovided for, and left without ſo much means as to feed themſelves: he therefore beſought their Lordſhips to take him into Conſideration, that he may not be worſe than the meaneſt ſort of People, having the honor to be a Peer, under the pretence of Treaſon. E. of *Strafford*

The *Second* was, That, ſince my Lord Keeper, and my Lord of *Northumberland* may be very good Witneſſes for him in the ſubſequent Charge, that will next come before their Lordſhips: And, whether my Lord *Cottington* be in diſpoſition to be here on *Monday*, he knows not; that therefore ſome courſe might be afforded, that he might have the benefit of their Teſtimony, when he ſhall come to Anſwer the next Charges,

Being demanded by the Lord Steward, By whom his Goods were Seized? and, Whether by the Orders of the Houſe of Commons Read the other Day, that their Lordſhips might clearly underſtand him? His Lordſhip anſwered, Yes: From whence Sir *John Clotworthy* obſerved, That, by theſe Orders, nothing could be Inferred, but a Sequeſtration of the advantage, that might poſſibly be had by the *Tobacco*; And, that his Lordſhip had a fair Eſtate in *Ireland* of——
per Annum acquired, ſince he came into *Ireland*, which is not at all touched.

To which my Lord of *Strafford* replyed, That he had a Thouſand a Year in *Ireland*, and that was all: And, he had Two hundred and ſixty

Article 19. in Family; and, how thoſe can be maintained (all the Cuſtoms being ſeized, and a little Money he had, having but narrowly eſcaped) he deſired their Lordſhips to take it into their Conſideration.

For theſe particulars, his Lordſhip had direction to Petition to their Lordſhips; And ſo the Houſe was Adjourned, and Monday Morning next appointed to proceed about the *ARTICLES*.

The Council for the Houſe of Commons having proceeded againſt the Earl of Strafford *Article by Article, till they came to Article* 20, *but then finding the following Articles ſo nearly related to one another, they would tye themſelves no more to theſe Rules; but, pleaded for liberty, to handle them, not as they lay, but as they were Related to one another: And, after my Lord* Strafford *had long and vigorouſly oppoſed this, my Lord High Steward Determined the Caſe, and Ordered, They ſhould be handled promiſcuouſly, and* in cumulo, *as the Council for the Commons-Houſe ſhould think fit, Therefore I have ſet down theſe Articles that were thus Debated here.*

THE

THE Twentieth Article.

The Charge.

That the ſaid Earl hath, in the Fifteenth and Sixteenth years of His Majeſties Reign, and divers years paſt, laboured and endeavoured to breed in His Majeſty an ill Opinion of His Subjects; namely, of thoſe of the Scotch Nation, and divers and ſundry times, and eſpecially ſince the pacification made by His Majeſty with His ſaid Subjects of Scotland in Summer, in the Fifteenth Year of His Majeſties Reign, he, the ſaid Earl did labour and endeavour to perſwade, incite and provoke His Majeſty to an offenſive War againſt His ſaid Subjects of the Scotch Nation: And the ſaid Earl, by his Counſels, Actions, and Endeavours, hath been, and is a principal and chief Incendiary of the War and Diſcord between His Majeſty and His Subjects of England, and the ſaid Subjects of Scotland, and hath declared and adviſed His Majeſty, that the Demands made by the Scots, in their Parliament, were a ſufficient cauſe of War againſt them. Article 20.

The ſaid Earl having formerly expreſſed the height and rancour of his mind towards His Majeſties Subjects of the Scotch Nation, viz. the Tenth day of October, in the Fifteenth Year of His Majeſties Reign, he ſaid, That the Nation of the Scots were Rebels and Traytors, and he being then about to come to England, he then further ſaid, That if it pleaſed his Maſter (meaning His Majeſty) to ſend him back again, he would root out of the ſaid Kingdom (meaning the ſaid Kingdom of Ireland) the Scotch Nation both Root and Branch.

Some Lords, and others, who had taken the ſaid Oath in the precedent Article only excepted: and the ſaid Earl hath cauſed divers of the Ships and Goods of the Scots to be ſtayed, ſeized, and moleſted, to the intent to ſet on the ſaid War.

THE

One and Twentieth Article.

The Charge.

Article 21. That the ſaid Earl of Strafford, ſhortly after his Speeches mentioned in the laſt precedent Articles, to wit, in the 15th Year of His Majeſties Reign, came into this Realm of England, and was made Lord Lieutenant of Ireland, and continued his Government of that Kingdom by a Deputy: at his arrival here, finding that His Majeſty with much Wiſdom and Goodneſs had compoſed the Troubles in the North, and had a pacification with his Subjects of Scotland; he laboured by all means to procure His Majeſty to break that pacification, inceniing His Majeſty againſt His Subjects of that Kingdom, and the proceeding of the Parliament there.

And having incited His Majeſty to an Offenſive War againſt His Subjects of Scotland by Sea and Land, and by pretext thereof, to raiſe Forces for the maintenance of that War; he counſelled His Majeſty to call a Parliament in England, yet the ſaid Earl intended, that if the ſaid proceedings of that Parliament ſhould not be ſuch as would ſtand with the ſaid Earl of Strafford's miſchievous Deſigns, he would then procure His Majeſty to break the ſame; and by ways of Force and Power, to raiſe monies upon the Subjects of this Kingdom, And for the encouragement of His Majeſty to hearken to his advice, he did before His Majeſty and His Priby-Council, then ſitting in Council, make a large Declaration, that he would ſerve His Majeſty in any other way, in caſe the Parliament ſhould not ſupply him.

THE

THE Two and Twentieth Article.

The Charge.

That in the Monthy of March, before the beginning of the last Parliament, the said Earl of Strafford went into Ireland, and procured the Parliament of that Kingdom to declare their Assistance in a War against the Scots, and gave directions for the raising of an Army there, consisting of 8000 Foot, and 1000 Horse, being for the most part Papists, as aforesaid. And confederating with one Sir George Ratcliffe, did together with him the said Sir George traiterously Conspire to employ the said Army for the ruine and destruction of the Kingdom of England, and of His Majesties Subjects, and of altering and subverting of the Fundamental Laws and established Government of this Kingdom. Article 22.

And shortly after the said Earl of Strafford returned into England, and to sundry persons declared his Opinion to be, that His Majesty should first try the Parliament here, and if that did not supply him according to his Occasions, he might use then His Prerogative as He pleased, to levy what He needed, and that he should be acquitted both of God and man; if he took some other Courses to supply himself, though it were against the wills of His Subjects.

THE

THE Three and Twentieth Article.

The Charge.

Article 23. THat upon the Thirteenth day of April laſt, the Parliament of England met, and the Commons Houſe (then being the Repreſentative Body of all the Commons in the Kingdom) did according to the Truſt repoſed in them, enter into Debate and Conſideration of the great Grievances of this Kingdom, both in reſpect of Religion, and the publique Liberty of the Kingdom; and His Majeſty referring chiefly to the ſaid Earl of Strafford, and the Archbiſhop of Canterbury, the ordering and diſpoſing of all matters concerning the Parliament: He the ſaid Earl of Strafford with the aſſiſtance of the ſaid Archbiſhop, did procure His Majeſty by ſundry Speeches and Meſſages, to urge the ſaid Commons Houſe to enter into ſome Reſolution for His Majeſties ſupply, for maintainance of His War againſt His Subjects of Scotland, before any courſe taken for the relief of the great and preſſing Grievances, wherewith this Kingdom was then afflicted. Whereupon a Demand was then made from His Majeſty, of Twelve Subſidies, for the releaſe of Ship-money only; and while the ſaid Commons then Aſſembled (with expreſſion of great affection to His Majeſty and his Service) were in Debate and Conſideration concerning ſome ſupply, before any Reſolution by them made, he the ſaid Earl of Strafford, with the help and aſſiſtance of the ſaid Archbiſhop, did procure His Majeſty to diſſolve the ſaid Parliament, upon the Fifth day of May laſt: and upon the ſame day the ſaid Earl of Strafford did treacherouſly, falſly and maliciouſly endeavour to incenſe His Majeſty againſt His loving and faithful Subjects, who had been Members of the ſaid Houſe of Commons, by telling His Majeſty, They had denied to ſupply him. And afterwards upon the ſame day did traiterouſly and wickedly Counſel and Adviſe His Majeſty to this effect, viz. that having tried the affections of His People, he was looſe and abſolved from all rules of Government, and that he was to do every thing that Power would admit, and that His Majeſty had tried all ways, and was refuſed, and ſhould be acquitted towards God and man; and that he had an Army in Ireland, (meaning the Army above-mentioned, conſiſting of Papiſts, his dependants, as is aforeſaid) which he might imploy to reduce this Kingdom.

THE

THE Four and Twentieth Article.

The Charge.

THat in the ſame Month of May, he the ſaid Earl of Strafford, falſly, traiterouſly, and maliciouſly, publiſhed and declared before others of His Majeſties Privy Council, That the Parliament of England had forſaken the King, and that in denying to ſupply the King they had given him advantage to ſupply himſelf by other ways; and ſeveral other times he did maliciouſly, wickedly, and falſly, publiſh, and declare, That ſeeing the Parliament had refuſed to ſupply His Majeſty in the ordinary and uſual way, the King might provide for the Kingdom in ſuch wayes, as he ſhould hold fit, and that he was not to ſuffer himſelf to be mastered by the frowardneſs and undutifulneſs of the People: And having ſo maliciouſly ſlandered the ſaid late Houſe of Commons, he did, with the help and advice of the ſaid Archbiſhop of Canterbury, and the Lord Finch, late Lord Keeper of the Great Seal of England, cauſe to be printed and publiſhed in His Majeſties Name, a falſe and ſcandalous Book, Entituled, His Majeſties Declaration of the Cauſes that moved him to Diſſolve the laſt Parliament, Full of bitter and malicious Invectives, and falſe, and ſcandalous aſperſions againſt the ſaid Houſe of Commons. Article 24.

Monday

Article 19.

Monday, April 5. 1641.

L. High Steward.

THE Right Honourable the Lord Steward did this day in the firſt place, acquaint the Gentlemen that managed the Evidence at the Bar, That their Lordſhips had commanded him to let them know, that my Lord of *Stafford* on *Saturday* in the Evening, gave in his Petition for the Examiation of my Lord of *Northumberland*; and that he coming in ſo late, it happen'd ſo, that the Gentlemen of the Houſe of Commons could not poſſibly have leave to croſe Examine, and ſo the Examinations are come only on one ſide, ſealed up; wherefore his Lordſhip propoſed, that things might for the preſent be ſo carried, as the Proceedings of this Day might not be hindred thereby.

Mr. *Whitlock.*

Mr. *Whitlock* Anſwered, That they ſhall go on according to their Lordſhips Order, but he deſired the Croſs-examination of my Lord of *Northumberland*, and the Teſtimony of ſome other Witneſſes that are ſent for, and not yet come (whoſe Names they ſhall give in) may be reſerved.

E. of *Strafford.*

To which my Lord of *Strafford* reply'd, That the motion is very new to him, and in theſe things of form, he may be eaſily miſtaken, and prejudiced before he is aware: That to their Croſs-examining of my Lord of *Northumberland*, he is very willing; but for Examining of Witneſſes, whoſe Names are not yet known, and to have ſuch a Latitude as to reſerve ſupplemental Proof, he conceives may be hard, and ſo appeals to their Lordſhips, whether their Lordſhips will not have them name their Witneſſes, and aſſign them a certain time, within which they ſhall examine them. And he deſires likewiſe the Examination of my Lord Keeper, who is not yet Examined, may be reſerved for him. And likewiſe that my Lord of *Canterbury* might be Examined, he having been Examined, (as he underſtood) againſt him, which if he had not been, he ſhould not have moved it: and that the advantage of their two Teſtimonies may be reſerved to him.

Mr. *Whitlock.* Mr. *Maynard.*

But Mr. *Whitlock* and Mr. *Maynard* thus explained it, that they intend not to Examine thoſe who are not yet named in writing, but to produce them *viva voce*; and that they ſhould take the boldneſs to name one of them to their Lordſhips, and that is Mr. Serjeant *Glanvile*, who was ſent for Eight Days ſince, and will be in Town to Night, And for my Lord of *Canterbury*, if they have examined him, it was before his Charge, and they ſhall make no uſe of his Examination, neither is he a Perſon capable of being a Witneſs, being now charged, and in ſome particulars, for conſpiring with the Lords at the Bar, and therefore they ſubmit it, Whether it be convenient he ſhould be Examined, though if they ſhall urge his Teſtimony, it will be ſomething; and likewiſe their Lordſhips over-ruled it in Sir *George Ratcliff*'s Caſe. But my Lord of *Strafford* ſubmitting all to their Lordſhips good pleaſure, it being his part only to move (as his Lordſhip ſaid,

and

and do what their Lordſhips ſhould in their wiſdom think fit. The Lord *Steward* declared their Lordſhips pleaſure, that Serjeant *Glanvill* and the other Witneſſes might be reſerved to be heard to morrow *viva voce*; and that the Examinations of my Lord of *Northumberland*, and my Lord Keeper might be likewiſe reſerved; for my Lord of *Canterbury* it was obſerved, that he was examined before the Charge, and that the Gentlemen of the Commons-Houſe intend not to make uſe of his Teſtimony. And ſo the Committee proceeded to the next Article. *Article* 20. L. H. Steward.

Mr. *Whitlock* proceeded, putting their Lordſhips in mind, that they had been pleaſed to take a view of my Lord of *Strafford*'s Courſes in *Ireland*, which have manifeſted his deſign to ſubvert and change the Law and bring in an Arbitrary Government; That his execution of that Arbitrary Power upon the Perſons, Eſtates and Lives of the King's Subjects there, hath been a clear proof of this his deſign. They ſhall now proceed to ſhow their Lordſhips what his deſign was in *England* and *Scotland*, as the ſame was ſet forth in the 20*th*, 21, 22, 33, and 24*th Article*, together with the Matters contained in them, they being interwoven and depending one upon the other, and ſo are but one buſineſs. Mr. *Whitlock*.

My Lord of *Strafford* did thereupon offer, That he conceived it was agreed, they ſhould go *Article by Article*, that his Memory is ſhort, and his Abilities weak; and if three or four be brought together, his Memory will not ſerve him to give them that account, that otherwiſe he ſhould be able to do; And ſince the order of proceeding *Article* by *Article* was by conſent, he beſought that courſe might be perſued, not giving conſent to the alteration of it. E. of *Strafford*.

But Mr. *Maynard* deſired leave to remember their Lordſhips, that they offered to go *Article* by *Article*, till they came to ſome that were woven together, which might change the courſe. They find much time is loſt between *Article* and *Article*, and there will need no great Conſideration of theſe, being only about words; and when my Lord of *Strafford* ſtands by way of Defence, he may not inform them which way to proceed, and they will proceed no way differently from what was formerly propoſed. Mr. *Maynard*.

My Lord of *Strafford* humbly appealed to their Lordſhips, Whether the Favour offered him for recollecting his Notes, had ſpent much time; and added, Perhaps if another man had been in his caſe, he would have thought as long a time as he had taken, neceſſary, tho' a far abler man than himſelf; but this inverts the whole Order agreed on, and brings him to a great inconvenience, and therefore he deſired he might Anſwer them ſingle, in the manner as was agreed upon. E. of *Strafford*.

To which Mr. *Whitlock* anſwered, That if the Articles be not proceeded in together, and as having relation to one another, they will looſe much of the Application, Evidence, and Proof; and he conceives will be more eaſie to my Lord of *Strafford*: And for the Order mentioned, there was, under favour, no order in it; but when my Lord of *Strafford* made the motion (Mr. *Whitlock* ſaid) he took the boldneſs to inform their Lordſhips, that he ſhould proceed on ſome of them altogether, Mr. *Whitlock*.

Article 19. which my Lord of *Strafford* did not deny, and their *Lord*ſhips approved of, and according to that they deſired to proceed.

Mr. *Glyn.* Mr. *Glyn* adding, That he never knew before this time, a Priſoner at the Barr preſcribe a Method to the Evidence, eſpecially if he be charged with High Treaſon; and my Lord may afford them the ſame favour they do him, for if he will Anſwer *Article* by *Article*, he may; but as they leave him to his courſe, ſo they deſire to take their courſe.

E. of *Strafford.* But in that Caſe my Lord of *Strafford* deſired he might have time to Anſwer till to morrow morning, and profeſſed that he ſhould be extream unwilling to offer any thing that became him not in Humility and Modeſty, or to preſcribe a courſe to any, he being in his condition; but he truſts he may with Humility and Duty, offer to their Lordſhips conſideration, theſe things that may be for his Aſſiſtance and Defence, without offence to any.

So the Committee that managed the Evidence for the Commons-Houſe, had direction to proceed as they had propounded.

Mr. *Whitlock.* Mr. *Whitlock* then proceeded to open the Charge of theſe *Articles*, which will refer, to prove a deſign of my Lord of *Strafford* againſt *Scotland*, to ſubvert their Parliament, and our Government here, and to bring in an Army on us, to force us to ſubmit to an Arbitrary Power.

Firſt, They ſhall apply themſelves to prove his deſign againſt *Scotland*, which lyes firſt in the Charge; That he adviſed the King two or three times, that the demands made by the *Scots* in their Parliament, were a ſufficient ground for a War againſt them, notwithſtanding that Parliament was indicted by the King's Royal Authority, and they have their liberty to Propound and Treat.

Your Lordſhips may remember what my Lord of *Strafford* ſaid at the ſentencing of *Stewart* in *Ireland*, whereby he expreſſed his hatred and rancour towards them, and his opinion of them at that time, being after the pacification made, and he continues in the ſame ill opinion of them, and to give the ſame ill Counſel.

That at another time he told His Majeſty, The Demands of the *Scots* in their Parliament, were not Matter of Religion; but ſtruck at the root of Government, and that it was fit to puniſh them by force.

That he cauſed the Ships of the *Scots* in *Ireland* to be ſeized.

That he procured the Parliament in *Ireland* to declare their aſſiſtance, and give Supply for a War againſt *Scotland*, and that ſeveral times he endeavoured to perſwade His Majeſty to an Offenſive War againſt the *Scots*, under which Particulars will fall in proof, his deſign againſt *Scotland*.

His deſign againſt *England* was of the ſame nature, which will appear by his Words and by his Councils, and by ſome Speeches given out by thoſe that have very near Relation to him, and are his Creatures, who agreed with his own words likewiſe.

They

Article 19.

They ſhall prove to their Lordſhips, That on a Diſcourſe between Sir *George Ratcliffe* and Sir *Robert King*, concerning the War with the *Scots*, and my Lord of *Strafford*'s being engaged in it. Sir *George Ratcliffe* told him, We are ingaged in a War with the *Scots*, and we muſt go on with it; and being demanded how the King would do, if he were not ſupplied by Parliament? He ſaid the King hath 30000 men, and 400000 *l.* in his Purſe, and his Sword by his ſide; and if he wants Money, who could pity him? That he ſaid likewiſe he could make peace with the *Scots* when he liſt, but that was the worſt of Evils.

There were other words ſpoken by Sir *George Wentworth*, my Lord of *Strafford*'s Brother, to a Gentleman, a Member of the Houſe of Commons; That *England* was ſick of Peace, and it would never be well with it, till it were again conquered. Theſe were the words of others his Creatures, They ſhall prove his Lordſhips own Words and Counſels.

That he declared his opinion to my Lord Primate of *Ireland*, that in caſe of neceſſity, His Majeſty might uſe his Prerogative, to levy what he needed, ſaving firſt to try the Parliament, and if they ſupply him not, then to uſe his Prerogative as he pleaſed.

That at another time when my Lord *Conway*, a Nobleman of this Houſe, was pleaſed to ask him, How the Forces raiſed, and to be raiſed, ſhould be paid? My Lord of *Strafford* ſaid, he doubted not but twelve Subſidies would be given. My Lord *Conway* putting the doubt to him again, What if they ſhould not be given? My Lord of *Strafford* was pleaſed to reply, Then the King would be acquitted before God and Men, if he took ſome other courſe to ſupply himſelf, though it were againſt the Will of the Subject.

At another time, when his Majeſty had graciouſly declared himſelf, that he would have a Parliament, he was pleaſed to ſay, That in caſe the Parliament ſhould not ſupply him, he would be ready to ſerve him in any other way. Theſe Words and Counſels were all before the calling of the laſt Parliament.

In the time of the ſitting of the Parliament, the Houſe of Commons were frequently urged by Meſſages, procured by my Lord of *Strafford* from his Majeſty, to take conſideration of the King's Supply for a War againſt *Scotland*; and before conſideration and relief of the grievances in Religion and Government of the Kingdom, 12 Subſidies were demanded, for releaſe of the Ship-money only, and when the Houſe of Commons were in debate concerning ſupply, and before they came to reſolution, by adviſe of my Lord of *Strafford*, that Parliament was diſſolved.

After the Parliament was diſſolved, they ſhall ſhow, how, by divers Words and Counſels my Lord of *Strafford* endeavoured to incenſe His Majeſty againſt his loving Subjects, and to ſlander them to His Majeſty, as to make a diviſion between them; And alſo of His deſign to bring in an Army upon us.

That he declared to His Majeſty, That the Parliament had denied to ſupply him, and had quite forſaken him: and that he ſaid to a Noble Earl of that Houſe, That the Parliament in this great diſtreſs of the King and Kingdom, had refuſed to ſupply the King in the ordinary and uſual way, and therefore the King might provide for the Kingdom, by ſuch ways, as he thought fit; and that the King was not to ſuffer himſelf to be maſtered by the frowardneſs, and undutifulneſs of his people.

Article 19.

That he ſaid at another time to a Nobleman in this Houſe, That the Parliament in denying to ſupply the King, had given him advantage to ſupply himſelf by other ways. And if worſe words can be uttered or ſpoken than what have been mentioned, they ſhall conclude with ſuch of his words, as none can be imagined to be of more fearful and dangerous conſequence, *viz.* The ſame day that the Parliament was diſſolved, my Lord of *Strafford*, by way of advice and counſel, told his Majeſty, That now he had tried the affections of His People, and that he was looſe, and abſolved from all rules of Government: That he was to do all that Power would admit; ſince he had tried all ways, and was refuſed, and ſhould in ſo doing, be acquitted before God and Men, and that he had an Army in *Ireland*, which he might employ to reduce his Kingdoms.

E. of *Traquair*. They began with that which concerned *Scotland*; The Earl of *Traquair* being ſworn, was asked, What he remembred to be ſpoken by my Lord of *Strafford*, concerning the demands made by the *Scots* in their Parliament, when he (my Lord *Traquair*) made relation of thoſe demands, with the time, and other circumſtances.

He anſwered, That it would be hard for him to anſwer to ſo general a queſtion, for their Lordſhips, and a great many know, that he made relation of the demands made by the Scotch Subjects in Parliament, at two ſeveral times, one by the King's Command here, before the Lords of the Council: Another by the like Command of His Majeſty, before the Peers at *York*.

being directed to apply himſelf to the words ſpoken by my Lord of *Strafford*, when he made his relation before the Council here,

His Lordſhip anſwered, That he could hardly give an Anſwer to ſuch a general Queſtion; but he believed my Lord of *Strafford* when he was at Council, gave his opinion in any thing brought in debate, as the Lords of the Council did: He knew what was brought in debate, but cannot condiſcend to every thing that my Lord ſpake there.

Mr. *Whitlock*. Mr. *Whitlock* here interpoſed, and ſaid, That he mentioned not the particular words, that might come from my Lord *Tarquair's* own expreſſion; but the queſtion he deſired, was, Whether my Lord of *Strafford* did not ſay, The demand of the Scotch Parliament was a ſufficient ground for the War?

To which my Lord *Traquair* being Interrogated?

E. of *Traquair*. He anſwered, That he ſhould very clearly declare to the beſt of his memory, what he heard upon that occaſion; but for the preſent he could not remember particularly, of any ſuch words expreſſed by my Lord of *Strafford* here at *Whitehall* (for he believes it was there when the Council met, when he made the firſt relation) But he remembred he was Deponed on theſe before, and if it might ſtand with their Lordſhips pleaſure and form, he would willingly remit himſelf to his former Depoſition.

Mr.

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Mr. *Whitlock* offered to their Lordſhips, that (for the recollecting of his memory) my Lord *Traquair* might peruſe the former Depoſition.

But my Lord of *Strafford* oppoſed it, becauſe their Lordſhips having not yet made uſe of any thing taken on oath, he deſired that Rule might be ſtill kept.

Mr. *Palmer* inſiſted on it, it being not offered as a proof to be heard, but becauſe it was tender'd to him to vary (being on his oath) though but in a Syllable, from what he had ſpoken before; And Mr. *Glyn* added, That this is very ordinary at Law. But my Lord of *Portland* moved that the Houſe might be Adjourned, that the Examinations ſhould not be made uſe of. Mr. *Palmer.*

My Lord *Traquair* deſired, that he might not be miſtaken, for he would expreſs his Reaſons, and humbly ſubmit it to their Lordſhips, that he was by order of their Lordſhips, examined on oath before, and examined on the ſame queſtion, and he only ſubmitted this to their Lordſhips, whether or not their Lordſhips would allow him, to remit himſelf to the Depoſitions in writing? And if it was not fit, nor conſiſted with their Lordſhips pleaſure, he ſhould go on to the beſt of his memory, and if he keep not the very words, he ſhould keep the ſenſe. And this he ſaid was, that he might not vary from any thing that was in his written Depoſition.

Mr. *Maynard* to induce their Lordſhips thereunto, inſtanced, That if a man writes a thing in a Book, and he after produced as a Witneſs, the Witneſs may have leave to look on his own Book, much more when he is examined, and there can be no ſuſpition of fraud in this. *Mr. Maynard.*

Whence my Lord of *Strafford* inferred, That this Gentleman deſired my Lord *Traquair* ſhould deſire that which my Lord himſelf did not deſire. E. of *Strafford.*

The Lord *Traquair* then proceeded and ſaid; All that he remembred in this particular, to the beſt of his memory, was upon occaſion of a Debate at *York*, at the King's Majeſties laſt being there; where it was required, That he ſhould make that ſame Relation before the Peers, who were to meet the next day after, that he had made at the Council-Board here: Some queſtion having been made, what ſhould be the ground or occaſion of this Relation again, ſince it was conceived, the buſineſs was not in the ſame condition it was, at the time of making his firſt Relation: Becauſe, as it was alledged at the time of making this Relation, that it was only of Demands, and theſe Demands had been repreſented by the Commons of Parliament to His Majeſty, with other Demands; and likewiſe in Parliament they had made theſe Demands paſs into an Act: It was therefore repreſented by ſome, that there was not a neceſſity of making the ſame Relation he had before; But of the Demands only, and not the Caſe of the buſineſs, as it ſtood before. E. of *Traquair.*

And upon this, (wherein he ſhall not be obliged to words) but ſomething to this ſenſe; my Lord of *Strafford* expreſſed, That he conceived, *That the unreaſonable Demands of Subjects in Parliament, was a ground for the King to put himſelf into a poſture*; or to this ſenſe: and his Lordſhip repeated, and explained it; That the unreaſonable Demands of Subjects, was a ground for the King, to put himſelf into a poſture of War. E. of *Strafford.*

Being

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Being asked, Whether it was ſpoken of Demands in Parliament?

His Lordſhip Anſwered, It was, that the unreaſonable Demands of His Subjects in Parliament, *&c.* for it was on the Scotch buſineſs they were ſpeaking.

Being asked, Where this was ſpoken?

He Anſwered, It was ſpoken before the meeting of the Peers, at the Council, which was convened, and he believes his Majeſty was preſent.

Being directed to repeat the words again?

His Lordſhip ſaid, the words were, That the unreaſonable Demands of Subjects in Parliament (for it was on the *Scotch* Demands), my Lord conceived, might be a ground for the King's Majeſty, to put himſelf into a poſture of War.

Being asked, Whether theſe Demands of the *Scots* were not in a Parliament?

He anſwered, That all the Demands made to the King's Commiſſioner, are in Parliament, or by the Parliament; and here he ſaid he was forced to make a little digreſſion, if he anſwered to this, for the Parliaments there, uſe not that way that the Parliament doth here: For he being the King's Commiſſioner, Propoſitions, and Demands, and Articles were made for him which are the preparatory ways of Parliament; and ſome Commiſſioners from the Gentry and Nobility, made motions and demands to him in private; before they were voted in publique. And of them all, he was tied to make an account. All were made in Parliament, or by Warrant of Parliament, or by ſome body of the Parliament.

Being asked, Whether ſome of the Lords then preſent, did not declare and expreſs themſelves to be of a contrary opinion?

He anſwered, That truly as he believed the occaſion of this came upon this Debate, and he believed there were ſome of the Lords of the Parliament, by way of debate, of another opinion, as he remembred it. And particularly my Lord *Morton* ſaid, he was of another opinon, to the beſt of his memory.

Being Interrogated, Who firſt ſpake in Council after this relation?

He anſwered, That he believed in this there might be a miſtake, for at that time he had made no relation, but was to make a relation next morning before the Peers, and this was only the debate, whether he ſhould make relation or not? But at that time at *York* no relation was made before the Council, but before the Peers next morning.

Being

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Being asked, but after the Relation made to the Peers, Who then ſpake firſt?

He anſwered, That truly he could not tell.

Being asked, Whether he could tell who ſpake firſt at *Whitehall*?

He anſwered, That it was very well known to a great many Lords here, that he (by His Majeſties Command) made a *Narrative* of the Demands made to him in Parliament by the Subjects of *Scotland*. In which Relation (he hoped my Lords memory would ſerve) he left the Commiſſioners, who were coming up, by Warrant from his Majeſty, on Petition, to give a Reaſon of their Demands. This he did, and it was his greateſt care to do it faithfully and ingenuouſly, without burdening of any whom it concerned: and, to burden his memory, who ſpake firſt, and who ſpake laſt, he could not tell; but, on debate of the buſineſs, ſomething was propoſed to the Table, and every man declared his Opinion; and, he thinks, they all agreed in one; but, who ſpake firſt, and who laſt, he knows not.

Being asked, Whether he remembred the words my Lord of *Strafford* ſpake, at the making of that Relation to the Privy Council?

He anſwered, That he remembers that (which he hopes all my Lords well remember) on that Relation of his, the King's Majeſty being then preſent in Perſon, was graciouſly pleaſed to take notice of that, he (the Deponent) had there affirmed, That ſome one (he thinks his name was *Cunningham*) was ſent from the Parliament of *Scotland*, to ſupplicate his Majeſty to allow ſome of their own Members to come up to his Preſence, and preſent their Demands. The King was pleaſed it ſhould be ſo; and when they were all of the ſame Opinion, the King condeſcended to it; and, to the beſt of his remembrance, it was conſented to by my Lord of *Strafford* and the whole Board; That at their coming up, if they ſhould not give good Reaſons and Satisfaction for their Demands, they would be aſſiſtant to his Majeſty to put him in a poſture, to reduce them to their due Obedience. But he cannot tye himſelf to words.

Being asked, What was meant by a *Poſture*?

He anſwered, A Poſture of War he believed, muſt needs be a Capacity and Power, to reduce them to Obedience.

Being deſired (upon my Lord of *Strafford*'s motion) to repeat the words again.

He anſwered, That he made a *Narrative Relation*, and a *Narrative Relation* only: and the Commiſſioners, whom his Majeſty was pleaſed to condeſcend to their coming up, to give Reaſons of their Demands, That the Scotch Subjects had made in Parliament:

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ment: This being the ſtate of the Queſtion; and the King's Majeſty graciouſly condeſcending, that ſome of their own Members ſhould come up, to repreſent their own Demands; It was put to Queſtion, What ſhould be done? And this was the Concluſion (to his memory, there being no Clerk nor Regiſter there, wherein my Lord of *Strafford* was no more involved then the reſt) that if theſe Commiſſioners ſhould not, at their coming up, give good Satisfaction touching their Demands, the Council would be aſſiſtant to his Majeſty, to put him into a Poſture of War, to reduce them to their Obedience. He will not ſay, theſe very words were reported again to my Lords at *York*, but the ſenſe and way of them was.

L. *Digby.* My Lord *Digby* did here deſire leave of their Lordſhips, to repreſent ſomething on Conſideration of that, which was laſt in queſtion, touching the Witneſſes helping themſelves by their former Examinations. He did forbear it before, in regard he ſaw this Honorable Lord, for his own particular, did not inſiſt on it; But, for the future, he thought it very neceſſary to repreſent it to their Lordſhips, as a thing not only much concerning the validity of the Proofs, but likewiſe very much conducing to the honour of many of their Lordſhips here; and, concerning the validity of their Proofs, he ſhall humbly offer this to their Lordſhips. That this noble Lord was often pleaſed to ſay, That he hoped he ſhould not be tied to Words: Now, their Lordſhips may be pleaſed to conſider the Charges of the preſent Articles are conſiſting principally of Words; to ſay, he ſhall not be tied to Words, is as much as to ſay, he ſhall not be tied to the Queſtion. And this he offered only concerning the validity of the Proofs; But concerning the honor of ſome Noble Lords that ſit here, he confeſſes he is very zealous in that when he thinks of it; that divers of them have been Examined formerly upon Oath, and upon Oath ſet down, without great leiſure, and recollection of the truth of things: and now, whether (ſo many Months after, being called again ſuddenly on Oath, to give account of theſe Words) the beſt memory may not be ſubject to variance, and diſcrepancy, and may not forget ſome prejudice and diſadvantage to thoſe Noble Lords honor, he humbly ſubmits to their Lordſhips.

Mr. *Glyn.* And Mr. *Glyn* added, That this Noble Lord hath prevented him; my Lord of *Traquair* hath not varied from his Examinations in Subſtance, but if he had, under favour, they muſt ſtand upon his Examinations; and, it is Legal, and Juſt, and Ordinary; and never a Judge in *England* will deny it; that if a Witneſs be examined, and varies, his Examinations ſhall be read to his face, and it is no prejudice, for the Party is ready to explain himſelf; And, he ſaid, he was about the offering it, and now muſt offer it, according to the truſt repoſed in him by the Houſe of Commons; that, if it ſtand with their Occaſions, the Examinations may be read, and under favour they may.

E. of *Strafford.* To this my Lord of *Strafford* anſwered, That here is a Queſtion now ſtirred, that hath been hitherto denied; for, he could leave out any Examinations taken, and certainly, as he conceives, it was never intended, that theſe Examinations ſhould be made uſe of. They were preparatory and no other: And (by this learned Gentlemans leave) whereas he ſpeaks of the manner of proceedings on Trials of ordinary Felonies, he (the Defendant)

fendant) hath ſeen ſome of them; and, in all particulars, where the Witneſs hath been *viva voce*, he never heard Examination Read. *Article* 20.

But, Mr. *Glyn* averred what he ſaid before; That if there be Examinations taken of a Felon at Common-Law, and the Witneſs comes *viva voce*; and the King's Council takes advantage, they do Read the Examinations taken. Mr. *Glyn.*

And here the Lord Steward declared, That it is not denyed to any to recollect himſelf.

My Lord *Traquair* thereupon further alledged, That this was the firſt time he was ever Examined upon Oath; and, if he hath been occaſion of any Scruple, he deſired pardon: but, it was long ſince he was Examined, and he could not ſee his Depoſitions; and, leſt he ſhould have erred in his Words, he deſired this favour. E. of *Traquair.*

Mr. *Whitlock* further added, That they muſt affirm this to be the ordinary and conſtant practice; and, if their Lordſhips doubt it, it ſhall be made good: and, he hopes, the Commons of *England* ſhall not be in worſe Caſe, than an ordinary Proſecutor. Mr. *Whitlock.*

And then offered the Depoſition of my Lord *Morton* (he being taken ill at that time) to this Point.

By which means my Lord of *Strafford* obſerved himſelf to be debarred, of Croſs-examining him. E. of *Strafford.*

And Mr. *Whitlock* Anſwered, And ſo is every Priſoner in the like Caſe. Mr. *Whitlock.*

Yet my Lord of *Strafford* deſired, He might reſerve to himſelf the benefit of Croſs-examining him, if he ſhould ſee Cauſe. E. of *Strafford.*

But Mr. *Whitlock* ſaid, That, under favour, in this Caſe, no Priſoner hath benefit of Croſs-examination, where Examinations are Read at Tryal. Mr. *Whitlock.*

And Mr. *Glyn* added, That he perceived by my Lord of *Strafford*, that he expected notice, what Witneſſes they were ready to produce, and his Lordſhip knew what Witneſſes will be neceſſary for his Defence, and ſhould be careful of them: But, Mr. *Glyn* ſaid further, That he thought never any Priſoner expected to know from the Proſecutor, what Witneſſes would be produced againſt him. Mr. *Glyn.*

My Lord of *Strafford* confeſt, he might eaſily miſtake, for never did ſo ignorant a Man, in their Proceeding, ſtand at the Bar: But, he conceived, that if the other party do Examine, it ſtands with Reaſon they ſhould give him notice of it, elſe he cannot poſſibly Croſs-examine. E. of *Strafford*

Mr. *Whitlock* thereunto replyed, That their Examinations are taken preparitorily, and it is according to Courſe of Law; That, if any Witneſſes Mr. *Whitlock.*

Article 20. Witneſſes die, or be neceſſarily abſent, their Examinations be uſed at the Tryal.

E. of *Strafford.* Yet my Lord of *Strafford* ſaid, He takes it, That if theſe be thoſe they call preparatory Examinations, they ought not to be read but by an Order of the Houſe.

L. H. Steward. So my Lord Steward put an end to this matter, ſaying, That if it can be, the Witneſſes, by the Order of the Houſe, ſhall be Examined *viva voce*; if not upon Faith made, the Examinations are to be heard. And

E. of *Morton.* then they proceeded to Read the Examinations of the Earl of *Morton*, taken 23 *January*, 1640. by virtue of, and according to a Commiſſion under the Great Seal of *England*, iſſued in Parliament, and dated 11 *Jan.* 1640.

To the 103. Interrogatory, This Examinant ſaith, That he was preſent at *York*, the Night before the meeting of the Great Council of the Peers of *England*, then at a Debate before His Majeſty, touching the ground of that War againſt the *Scots*.

104. He ſaith, That at, or in the ſaid Debate, he heard the Earl of *Strafford*, in His Majeſty's preſence, ſay, That the unreaſonable and exorbitant Demands made by the *Scots* in their Parliament, were a ſufficient ground to make a War againſt them; and that the King needed not to ſeek for any other grounds for it, or words to that effect.

105. That towards the end of the ſaid Debate, this Examinat told His Majeſty, That His Majeſty having given the *Scots* leave, in their Parliament, to Petition for Redreſs of ſuch things, as they conceived to be Grievances, he ſaid, His Majeſty would not think it a ſufficient ground, to make War againſt them for any Demands by them made in Parliament, without firſt hearing the Reaſons thereof, which Reaſons were not before that time related at, or in any meeting of the Council, whereat this Examinant was preſent; howbeit the ſaid Earl of *Strafford* again ſaid, That there was ground enough for that War. After which His Majeſty was pleaſed to ſay, That this Examinant had reaſon, for what this Examinant did then ſay,

Mr. *Whitlock.* Whence Mr. *Whitlock* obſerved, That my Lord *Morton* went further then was opened; For though he told His Majeſty, that that which was treated on in Parliament, eſpecially by the King's leave, and before the reaſon of theſe Demands were declared, was not a ſufficient ground of a War; yet notwithſtanding, my Lord of *Strafford*, though he heard not theſe Reaſons, nor knew whether they were unlawful or no, (he was not verſed *in Republica aliena*) yet he reiterates and declares his Advice again to His Majeſty, That theſe Demands were a ſufficient ground of War.

106. He ſaith, That when my Lord *Traquair* made Relation at the Council-Table, of the Demands made by the *Scots* in their Parliament, without rendring any reaſon of the ſaid Demands, as leaving this to the *Scotch* Commiſſioners, who were on the way, coming

coming towards His Majeſty, by His Majeſty's leave, and allowed to yield their Reaſons in that behalf: which Courſe of the ſaid Earl of *Traquairs*, in leaving the ſaid Reaſons to the ſaid Commiſſioners, His Majeſty well approved of, and pleaſed himſelf to expect from him a Relation only what the ſaid Demands were; this Examinant, on the ſaid occaſion, heard the ſaid Earl of *Strafford* ſay to His Majeſty, after the ſaid Demands ſo related, That the ſaid Demands were not matters of Religion, but ſuch as did ſtrike at the Root of Government, and ſuch as he thought were fit for His Majeſty to puniſh by force; or words to ſuch effect. *Article* 20.

Whence Mr. *Whitlock* obſerved, That the words laſt read, were ſpoken by my Lord of *Strafford*, at that time when my Lord *Traquair* made a Relation before the Council here, which was a great while before the ſecond Relation at *York*, before the great Council of the Peers. And, though the King himſelf, in his Clemency and Goodneſs, thought that a ſufficient Reaſon, to do no more upon it at that time, having not heard the Reaſons; yet my Lord of *Strafford* was pleaſed then to give Him this Counſel. Mr. *Whitlock*.

My Lord *Traquair* being Interrogated, Whether the Reaſons of the Demands were given before, or at the Meeting at *Whitehall*? E. of *Traquair* a Witneſs.

He Anſwered, That at his firſt Relation, their Lorpſhips know very well, the Commiſſioners were not come up; but, he cannot burthen his Memory, That he heard my Lord of *Strafford* ſay ſuch words.

Mr. *Glyn* obſerved, That they put it only to this, That the Reaſons were not, nor could not be related, the Commiſſioners being not come up. Mr. *Glyn*.

And, from theſe Proofs, Mr. *Whitlock* conceived it to ſtand proved, That my Lord of *Strafford* laboured to perſwade His Majeſty to an Offenſive War, to Imbroyle both Kingdoms in a National Quarrel, and the Blood one of another, and this ſeveral times: and that at *Whitehall* being Three quarters of a year before the other, which was at the Council at *York*. Mr. *Whitlock*.

For Proof of the further Proſecution of his Deſign.

Sir *Henry Vane*, Treaſurer of His Majeſty's Houſhold, and Principal Secretary of State, was Sworn and Interrogated, What Advice my Lord of *Strafford* gave to His Majeſty, concerning making a War with *Scotland*; or ſeizing their Lordſhips? Sir *Henry Vane* a Witneſs.

He Anſwered, That he ſhould be very glad to underſtand the Queſtion cleerly, before he makes an Anſwer; for, to part of it, he is able to ſay nothing: that is, concerning the Ships of *Scotland*, he not hearing of it till now. And, he will be ſorry here, to ſay any thing, that is not true; for, he conceives, the Witneſſes were put upon a great ſtrait. The Examinations were taken long ſince; and, for his part, he hath ſeen none of them:

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them: And he beſought their Lordſhips, to take ſo much care of them, that they may not be ſubject to croſs what was ſaid before; and, paradventure, beſpatter our ſelves, when we ought to have our Memories a little refreſht in it. This he ſaid, he thought fit to ſpeak before he Anſwers the Queſtion; and, if he be asked ſuch a Queſtion as he cannot clearly Anſwer to, he ſhall do it Candidly and Ingeniouſly; but, to the Ships, he can ſay nothing.

Being Asked, Whether about the 5*th* day of *May*, 1639, he heard my Lord of *Strafford* perſwade the King to an offenſive War againſt the *Scots*?

He Anſwered, ſaying, That to that Queſtion he is able to ſpeak; and he is the better able (which he may declare to their Lordſhips here) becauſe His Majeſty hath been pleaſed, out of the Juſtice and equality he owes to all his Servants, to give him leave to do it: To that Point then, this he ſays, clearly and plainly, Whether it were upon the 5*th* day of *May*, or no, he is not able to ſay; but either that day, or ſhortly after, where divers of my Lords were preſent, being commanded, after the breach of the Parliament, to ſpeak what was fit to be done, and every Man to vote in his own turn, and he amongſt the reſt took his turn; and he muſt ſay, that after Mr. Secretary *Windebank* had ſpoken firſt of it, it came to him: There were then divers Reaſons agitated, which do not occurr to his Memory; but this he remembers well, a Defenſive War was propoſed, for it was propoſed by himſelf: Thereupon that was not thought fit to be done; and certainly my Lord of *Strafford* was of opinion for an Offenſive War. This he can ſay, and this is all he can ſay to this Point.

Being Interrogated, What he could ſay againſt my Lord of *Strafford*'s procuring the Parliament of *Ireland*, to engage themſelves in a Supply for a War againſt *Scotland*?

He Anſwered, That this was new to him; and, he could ſay nothing to it in particular, but what in general came to his knowledge; That ſo many Subſidies were given to the King: and that is all he can ſay, having not heard of the Queſtion till now.

Mr. *Whitlock.* Mr. *Whitlock* deſired to read my Lord of *Northumberland*'s Examination.

E. of *Strafford.* But, my Lord of *Stafford* conceived that not ſo proper, his Examination being reſerved.

Mr. *Whitlock.* Which Objection Mr. *Whitlock* taking off, by offering to their Lordſhips that for which they deſired to reſerve him, was another Matter, they now deſiring his Examination only to the point, of my Lord of *Strafford*'s perſwading the King, to an Offenſive War againſt the *Scots*.

The

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E. of *Northumberland* a Witneſs.

The Examination of *Algernon* Earl of *Northumberland*, taken 5*th December*, 1640. Read.

To the 16*th* Interrogatory, he ſaith; That the ſaid Lord-Lieutenant did, after the breach of the laſt Parliament; adviſe His Majeſty, To go vigorouſly on in an Offenſive, and not Defenſive War againſt the *Scots*.

Biſhop of *London*.

The Lord Biſhop of *London*, Lord-Treaſurer of *England*, Sworn, and Interrogated, What he knew concerning the Earl of *Strafford*'s giving Advice to His Majeſty, to go on in an Offenſive War againſt the *Scots*, before, or after the breach of the laſt Parliament?

He Anſwered, That all he remembred of my Lord of *Strafford*'s Advice, touching a War, was, That which he gave publickly in Council at the Council-Board; for, he remembred not any ſingle Advice that he gave at all. The Advice given by his Lordſhip (the Deponent) at the Council-Board, after the Relation made by my Lord (the Earl of *Traquair*) to the beſt of his remembrance was this; My Lord *Traquair* did make a Relation before His Majeſty, and my Lords, of what had paſſed in the Parliament of *Scotland*, and of many Demands made there; whereunto they did deſire to have His Majeſty's conſent and approbation: His Majeſty, was pleaſed to ſignifie to thoſe Lords, That, among theſe Demands, there were ſome of them very prejudicial to that Crown; inſomuch, that he could by no means give way to and conſent to them, with His Honor and Safety, and thereupon the Advice, or Opinion, given, was (and then was given by my Lord the Earl of *Strafford*, (as well as others of my Lords) and the Demands being of that nature, as they were then informed, and the Commiſſioners, as he remembers, being then come up, or at leſt had a Licence to come up;) It was Reſolved upon, That, in caſe they ſhould inſiſt upon thoſe Demands, that had been ſo related, and would not recede nor alter, nor ſubmit otherwiſe, then His Majeſty ſhould prepare Himſelf to reduce them by force; this he takes to be my Lord of *Strafford*'s Expreſſion, and the Subſtance of what was there delivered.

Being Asked, Whether my Lord of *Strafford* adviſed then an Offenſive War, or a Defenſive War?

He Anſwered, That he did not well remember what kind of War, but he thinks it was an Offenſive War.

Being Asked, Whether at the Diſſolving of the laſt Parliament, my Lord of *Strafford* did not adviſe to an Offenſive War?

He Anſwered, That he remembers, upon a Meeting afterwards, of caſting up the Charges, and other things, there was a Diſcourſe of it, Whether it was beſt to have a War, as only Defenſive (the War being then Reſolved upon) or to make an Offenſive

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Offenſive War? that is, to enter into *Scotland* with Force: And there were divers Opinions in't, and he believes my Lord did incline to the Opinion, for an Offenſive War.

Being Asked (on my Lord of *Stafford*'s motion) Whether he (my Lord of *Strafford*) delivered any Opinion at that time, different from the reſt of the Lords preſent?

He Anſwered, That every Man there, expreſt himſelf in ſuch ſort as he thought fit; ſome in one kind, ſome in another; but he did not obſerve any difference as to the main, in the Opinion of any Man.

Being Asked, About the time, When this was?

He Anſwered, It was at the Council-Board, at that time, when my Lord *Traquair* made his Relation, and, as he remembers, it was about *December*.

Being Asked, Whether he delivered his Opinion once, or twice?

He Anſwered, The Opinion was delivered but once, as he remembers.

To the Seizing of the Scotch Ships in *Ireland*, after the Pacification,

Mr. *Barnewell* a Witneſs.

Mr. *Nich. Barnewell* Sworn, and interrogated, What he knew of the ſtopping of the Scotch Ships in *Ireland*?

He Anſwered, That Sir *Robert Loftus* had a Place under my Lord Admiral, and had Seized on ſome Scotch Ships and Boats; and, that others fled away, and, that Sir *George Ratcliffe* was Angry that he ſpoke of it in ſo Publick a Place, as to give them occaſion to run away; but, the time he doth not remember: and, he thinks, Sir *Robert Loftus* was Vice-Admiral of *Lemſter*; but, he cannot take his Oath that the Warrant was from my Lord of *Strafford*; but, Sir *Robert* told him, He had a Warrant.

Mr. *Whitlock*.

And ſo Mr. *Whitlock* ſaid, They would leave it, as to the matter of *Scotland*, and obſerved the Proofs. That when a free Parliament was Convened there, by the King's Authority, and had liberty to Treat of their Grievances and Demands; and, when theſe Demands, by way of Narration, were declared in my Lord of *Strafford*'s hearing, though the Reaſons of them were not then delivered: yet my Lord of *Strafford* gave his Advice to the King, That theſe Demands made in Parliament were a ſufficient ground of a War againſt them, even after His Majeſty had declared Himſelf ſatisfied, and would ſtay to hear the Reaſons; but that would not ſatisfie my Lord of *Strafford*, he himſelf declared it at ſeveral times, and before himſelf had heard the Reaſons, that the Demands made by the King's Free Parliament

Parliament, were a ſufficient ground of a War; And if it be ſo (Mr. *Whitlock*, ſaid he) he is ſure then, Parliament or no Parliament, no Liberty, nor Property can ſubſiſt with it. *Article* 20.

My Lord of *Strafford* hath declared his intention and deſign, to ſubvert the Parliament, and to ſubvert the Government of *Scotland*. That he perſwaded the King to an offenſive War; and told the King, their Demands were not matter of Religion, but ſtruck at the root of Government, and that it was fit to puniſh them by force, and on theſe proofs it is conceived his Deſign was manifeſt. After this Mr. *Whitlock* proceeded to ſhew alſo his Deſign againſt *England*, and began with the Teſtimony of my Lord Primate of *Ireland*.

The Examination of the Right Reverend Father in God, *James*, Lord Arch-Biſhop of *Armagh*, Primate of all *Ireland*, taken 11 *Jan.* 1640. Arch-Biſhop of *Armagh*, a Witneſs.

To the 119*th* Interrogatory he ſaith, That in or about *April* laſt paſt, in diſcourſe betwixt the Earl of *Strafford*, Lord-Lieutenant of *Ireland*, and this Examinant in *Dublin* in *Ireland*, touching the Levies of Money upon the Subjects by the King, he did hear the ſaid Earl of *Strafford* declare, That he did agree with thoſe in *England*, who thought, that (in caſe of eminent neceſſity) the King might make uſe of His Prerogative, to levy what he needed, ſave that, (as his Lordſhip then further ſaid, in his Opinion) His Majeſty was firſt to try His Parliament, and if that ſupplyed him not, then he might make uſe of His Prerogative, as He pleaſed Himſelf; or words to that effect.

The Lord *Conway* being Asked, What words my Lord of *Strafford* uſed, when the ſaid Lord *Conway* Demanded, How the Army ſhould be paid, in caſe the Parliament gave not ſupply? L. *Conway* a Witneſs.

His Lordſhip Anſwered, That he had been formerly Examined upon this thing, and then gave his Anſwer, and beſought their Lordſhips to give him leave to look on what he ſaid, that he might not vary.

And after ſome Debate thereupon, having the Copy of his Examination ſhewed him.

He anſwered to the ſaid Queſtion, That it was only for one word, that he deſired to look into the Paper, and it was, whether in the latter end he did not ſay (or words to that effect) Theſe words about which he is examined, did paſs between my Lord of *Strafford* and him in private Diſcourſe, when (he believes) neither of them thought they ſhould have been called to an account for them; for they were then thinking of raiſing of Horſe, and ſeeing but ſmall ſums of Money, He asked my Lord how theſe Forces ſhould be paid? His Lordſhip Anſwered, He made no doubt, but that the Parliament would give aſſiſtance to the King by 12 Subſidies; and if they did that, it would ſufficiently pay the Army, or ſome ſuch words. But ſaid he (my Lord *Conway*) What if the Parliament ſhall not ſupply the King, or give theſe Subſidies? Then my Lord of *Strafford* ſaid, or words to that effect, That the King had need, and if the Parliament

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ment would not ſupply the King in thoſe things that were juſt and lawful to be ſupplyed; and if they would be ſo wilful, as not to ſupply him; then the King was juſtified before God and Man, if he did help himſelf in the Goods of the Subjects (or to this effect) tho' it were againſt their Will.

Being directed to repeat the words again (on my Lord of *Strafford*'s motion.)

His Lordſhip Anſwered, That in his examination he ſaid words to this effect, and ſo he doth now, yet doth not Depoſe abſolutely, that theſe very words were ſpoken, but to his underſtanding, and as he then conceived them, they were to this purpoſe; when he asked my Lord of *Strafford*, How theſe Troops then raiſed ſhould be paid? My Lord of *Strafford* ſaid, He made no doubt but the Parliament would ſupply the King, and give him 12 Subſidies. And ſaying again. What if the Parliament would not give him that aſſiſtance? My Lord of *Strafford* ſaid, The cauſe was very juſt and lawful, and if the Parliament would not ſupply him, then he was juſtified before God and Man, if he ſought means to help himſelf, though it were againſt their Wills.

Sir *Henry Vane* a Witneſs.

Sir *Henry Vane* being Interrogated, Whether he did not hear my Lord of *Strafford* (when conſideration was had of a Parliament, before the laſt Parliament) promiſe His Majeſty, in caſe the Parliament did not ſucceed, he would be ready to ſerve him any other way?

He Anſwered, That he muſt begin, as the Lord that ſpake laſt (ſince they have no help of their Examinations) which is, that the words were ſuch, or to ſuch an effect, for otherwiſe, they that be Witneſſes have a very hard task to play, for they lie open to be excepted againſt, and peradventure when they ſpeak truly, may be intangled, if their memory help them not out. But to the queſtion propoſed, he ſays this, That upon the 5*th.* of *December*, as he takes it, he did hear my Lord of *Strafford* ſpeak words to that effect, as they are now asked, to his beſt remembrance: And truly (he thinks) really he did, *viz.* That truly if the Parliament ſhould not ſucceed, his Lordſhip would be ready to aſſiſt His Majeſty any other way, or words to this effect.

Mr. *Whitlock*.

Mr. *Whitlock* ſummed up the Evidence, and ſaid, There was an intent to call a Parliament, to try if they would give the King a Supply, and being engaged in a War againſt the *Scots*, my Lord of *Strafford* before the Parliament came, doubted not but 12 Subſidies would be given, and while the Parliament was ſitting, that was the number demanded by a Meſſage from the King.

This Deſign did not take other effect than himſelf expected, and it ſeems deſired; for when the Parliament was ſet, and frequently urged by meſſages from His Majeſty, to give that very number of 12 Subſidies, and that for releaſe of Ship-money only, whereas by the old and right courſe of Parliaments, the Grievances are in the firſt place to be conſidered of, and to be humbly preſented to His Majeſty, and upon redreſs of thoſe Grievances

ces, the People are to ſhew their thankfulneſs to his Majeſty, for his Grace and Goodneſs, in redreſſing of them, by their free gift of Subſidies. *Article* 21.

My Lord of *Strafford* changes this courſe, and perſwades his Majeſty to put the Subſidies in the firſt place, and to fall at firſt on conſideration of Supply, and that ſo great a proportion, and while the Parliament was in debate of this, and before they had reſolved whether they would give Supply or no, by my Lord of *Strafford*'s advice, the Parliament was Diſſolved; His Lordſhip confeſſes in his Anſwer, he did give his Vote for diſſolving of the Parliament, and they ſhall make it appear in time, that he did procure it.

After the Parliament was Diſſolved, my Lord of *Strafford* goes on, endeavouring all that lay in his power, to incenſe a Gracious Soveraign againſt his loving Subjects, to ſlander the People to the King, and for ever to break off all Parliaments, and take away the Liberty and Property of the Subject; and by what courſe? By force, by bringing in an Army amongſt us. That was his Advice, though (bleſſed be God) his Majeſty was pleaſed to reject it.

1. To prove what was ſaid by the Creatures and Friends of my Lord of *Strafford*.

Sir *Robert King* being Interrogated, What words he heard from Sir *George Ratcliffe* to this purpoſe, That the King had an Army, and Money in his Purſe, and if his Subjects in *England* ſhould not ſupply him, what uſe he might make of his Army for ſupply, and the times? Sir *Rob. King* Witneſs.

He anſwered, That he demanded of Sir *George Ratcliffe*, How the King would do for money to maintain the Scotch War? Sir *George Ratcliffe* ſaid, The King could not want money, his Majeſty had an Army of 30000 men, and he had 400000 *l.* in his Purſe, and a Sword by his ſide, and if he would want money, who could pity him? or words to this purpoſe.

To which he the *Deponent* objected, How can this courſe be taken, when the Scotch are on foot unpacified? Sir *George* anſwered, They can make peace with the Scotch when they pleaſe; and being riding together to the ——— — — he the *Deponant* ſaid, That my Lord Lieutenant, and the ſaid Sir *George* had leaſt reaſon of all his Majeſties Subjects to deſire a War. Sir *George* anſwered, It is true; For his part he would give 20000 *l.* to be quit of it, but we are now engaged, and we cannot but go on; and then he (the *Deponent*) asking, What he would do for money? Sir *George* anſwered, The King could not want money He had an Army, *&c.* as before is depoſed.

Being asked what was the reaſon of making this Demand, and whether he did conceive a forcible way was intended?

He anſwered, He did underſtand that by the words, *That if they would not ſupply him, the King was ready to ſupply himſelf.*

Lord *Ranalagh* being Interrogated, What he heard Sir *George Ratcliffe* ſpeak, concerning the King's levying money by force, or to that purpoſe? L. *Ranalagh* Witneſs.

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L. *Ranalagh* Witneſs.

He anſwered, That the words he to inform their Lordſhips of, and on which he was formerly examined, proceeded from Sir *George Ratcliffe*, not to him privately and only, but they were ſpoken in a Council of War, when they were aſſembled together upon that Service. My Lord-Lieutenant arrived in *Ireland* in *March* was twelve months, and after his Lordſhip had ſpent ſome days in *Ireland*, (within which time he (the *Deponent*) with others, were commanded to attend at the Council of War) departed that Kingdom, leaving direction behind him, how this Affair ſhould be proceeded in, in his Lordſhips abſence; and as he takes it, in the beginning of *April*, my Lord departed out of *Ireland*; and not long after, they being aſſembled in a Council of War, there was occaſion to ſpeak of all Preparations that ſhould be, for the raiſing of an Army of 8000 Foot, and Proviſion for Tranſportation of 1000 Horſe, which was the Army of *Ireland* at that time. In theſe diſcourſes they found there was a great deal of Treaſure to be conſumed, and much Money required, to ſupply the occaſion: It was computed (and he thinks, Sir *George Ratcliffe* had a privy hand in the computing of it) how much Charge would maintain the Army for a year? and to the beſt of his remembrance, it was computed unto 270000 *l.* and odd, which gave them occaſion (conſidering the Army to be tranſported out of *Ireland*, was but in proportion ; of what was prepared in *England*) to ſpeak of the Charge that muſt be raſed in *England*, according to that proportion: And the finding it to amount to ſo great a ſum, it fell into queſtion, how the King ſhould be ſupplied with money, for ſo great expence of Treaſure, if he were not ſupplied by Parliament? Sir *George Ratcliffe* anſwered, The King hath his Sword by his ſide, and 30000 men at command, and if he want money, let no man pity him. It was thereupon replied, and as (he the *Deponent* takes it, by himſelf) how can Money be raiſed, when the Scotch Army is on foot, and ſo ſtrong? Sir *George* anſwered, We can make Peace with the Scots when we liſt, but that is the worſt of Evils. And this is the Subſtance as much as the *Deponant* can remember.

Mr. *Whitlock*.

Whence Mr. *Whitlock* obſerved, That their Lordſhips heard what paſſed from Sir *George Ratcliffe* in Words and Counſels, and that their Lordſhips, knew the nearneſs and relation between Sir *George Ratcliffe*, and my Lord of *Strafford*, and this was after direction was left for raiſing the Army; and when my Lord of *Strafford* was come away himſelf, it ſeems he had left his directions which Sir *George Ratcliffe*, as it will appear by my Lords own words concurring with theſe.

Mr. *Maynard*.

And Mr. *Maynard* deſired their Lordſhips to take notice of theſe words, (*We can make peace with the Scots when we will*) it was not Sir *George Ratcliffe* alone.

Sir *Thomas Barrington* witneſs.

Sir *Tho. Barrington* being Sworn and Interrogated, what words paſſed from Sir *George Wentworth* to him, *About* Englands *being ſick of peace*, &c. at what time it was, and on what occaſion?

He

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He anſwered, That immediately after the laſt Parliament, Sir *George Wentworth* had accidentally a diſcourſe with him, being a Gentleman, with whom, he (the *Deponent*) never had intercourſe or interlocution before that time. On ſome diſcourſe betwixt them concerning the former Parliament, in the cloſe of his diſcourſe, he was pleaſed to expreſs himſelf thus, *This Commonwealth is ſick of Peace, and will not be well till it be conquered again.* The application of theſe words, he (the *Deponent*) ſaid, he muſt leave to their Lordſhips better Judgments, he not being able to decide it: And to the occaſion, according to the truth which ſhall be ever preſent with him, he (the *Deponent*) ſaid he would deliver it clearly. They had ſome occaſion to diſcourſe of the former Parliament, and ſpeaking now on his oath, he muſt expreſs that, which otherwiſe he ſhould not, being the words of a private diſcourſe, which in the courſe of his life he hath ever avoided, eſpecially in the Caſe of a Gentleman. They were in diſcourſe of the former Parliament, and the carriage of that; and Sir *George Wentworth* was of one opinion, and he (the *Deponent*) of another. Sir *George* expreſſed himſelf in this ſenſe, That he conceived the Parliament had no intention to give the King money, he (the *Deponent*) ſaid, That if the King's Majeſty had pleaſed, they had ſate awhile together, they had ſupplied him. And on the cloſe, that expreſſion fell from him, that which he (the *Deponent*) ſaid, he ſhall not need to repeat.

Sir *Robert King* being Interrogated, what ſenſe and apprehenſion was in my Lord *Ranalaugh*, on the words that fell from Sir *George Ratcliffe* at the Council-Board?

King Witneſs.

He anſwered, That my Lord *Ranalaugh* did conceive, there was an intention to take Money forcibly in *England*, and was much troubled with the words, and caſt out ſome ſuch Speeches; That we ſhall turn our Swords on them from whom we are deſcended, and having cut their Throats, make way for our own ſafety, or ſome ſuch words.

Lord *Ranalaugh* being Interrogated, what his ſenſe was of theſe words, ſpoken by Sir *George Ratcliffe*?

Ranalaugh Witneſs.

He anſwered, That the expreſſion of theſe words, and ſome other words, that fell from my Lord-Lieutenant to himſelf, before his Lordſhips departure out of *Ireland*, made him doubt that there might be ſome danger intended, by the tranſportation of the Army; and it was not his ſenſe alone, for upon diſcourſe betwixt others that were of the Council and himſelf, the like apprehenſions were amongſt them, as between my Lord Preſident of *Munſter* and him; and alſo between Sir *Adam Loftus* and him: Thoſe that durſt be free one to another, did expreſs their fears and apprehenſions about it.

Article 22. Being asked, What the words were my Lord of *Strafford* ſpake to him, on which the apprehenſions were grounded?

He anſwered, That it was thus: My Lord of *Strafford* at his laſt being in *Ireland*, was pleaſed to ſay to him, My Lord, will you buy any Land? I will ſell you all the Land I have in *Ireland*. To which, he the Lord *Ranalaugh* anſwered, That he is not able to buy Land, being in debt, and God forbid his Lordſhip ſhould ſell his Land in *Ireland*; Truly ſays he, my Lord, we are like to have a troubleſome world, and I am willing to part with it. To which, the Lord *Ranalaugh* replied, it will be hard then with us, that have no Eſtates but in *Ireland*. No my Lord, (ſays my Lord of *Strafford*) I do not mean it ſo, for I believe you will be quieter here, than they will be in *England*: But he doth not think that ever he ſpake theſe laſt words to Sir *Robert King* in his life.

Being asked, How he expreſſed his ſenſe of thoſe words to Sir *Robert King*?

He anſwered, That the firſt diſcourſe was from Sir *George Ratcliffe*; the latter was from my Lord to himſelf. He apprehended there was ſome deſign (as he feared) in *England*, and he had this reaſon for it too. For in the condition they were then in, they of the Council of War ſaw no poſſibility to make this Army in a readineſs to invade *Scotland* within the time limited; for by directions of my Lord of *Strafford*, left with them, they were to be ready at the Provincial Rendezvous, by the 18*th* of *May*, and that by ſubſequent directions, was forborn till the 18*th* of *June*: then they all met, they march to the general Rendezvous; The Arms, Ammunition, and Preparations could not be ready ſo ſoon, nor were they in readineſs, till the end of *September* following; So that on the whole matter, thoſe amongſt them that might be free, their conſultations all agreed, that it might tend to the purpoſes here declared.

Mr. *Whitlock.* And from the time obſerved by my Lord *Ranalaugh*, for the raiſing of the Army in *Ireland*, Mr. *Whitlock* obſerved, That it could not be intended for *Scotland*, for no Army was raiſed in *Scotland*, till ſome months after.

To prove the words ſpoken by the Lord of *Strafford* himſelf, to ſhew his deſign to bring the Army to *England*.

Sir *Tho. German*, Witneſs. Sir *Tho. German* Comptroller of His Majeſties Houſhould, being Interrogated, whether he heard not the Earl of *Strafford* tell the King, that the Parliament had denied to ſupply him, and had forſaken him, or words to that effect?

He anſwered, That he ſhould humbly preſume to crave one thing of their Lordſhips, and it was briefly this, There is nothing that he can be Interrogated upon in this Cauſe, but it muſt fall within the cognizance and knowledge of may of my Lords here preſent, who muſt needs remember all that he hath to ſay, as well, or perhaps better than he can himſelf; His humble deſire there-

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therefore to their Lordſhips is, That if through diſtance of time, and the weakneſs of his memory, there be any thing that may be better remembred by ſome of their Lordſhips, than is at this time by himſelf, it may not be imputed to him, as from a deſire of concealing any part of the truth, but a failor in memory; and that their Lordſhips will believe of him, that in this great Aſſembly, he ſhall be very unwilling to ſpeak any thing, but, that that ſhall perfectly occurr to his remembrance, and that requeſt granted, he ſhall humbly anſwer to every thing. And to the queſtion he remembers very well, that he was interrogated upon the ſame terms heretofore, that he is now. His Anſwer was then, as he takes it, in theſe words; That he remembred that he had heard my Lord of *Strafford* ſay ſomething of the Parliaments deſerting, or forſaking the King, or ſomething to that effect or purpoſe; but he did not remember then, what inference my Lord made upon it, nor what he did conclude thereupon; neither can he now call himſelf to further remembrance on that point, than he then depoſed.

E. of *Briſtol*, Witneſs.

The Earl of *Briſtol* Sworn and Interrogated, Whether he heard any words ſpoken by my Lord of *Strafford*, That in this great diſtreſs of King and Kingdom, the Parliament had refuſed to ſupply the King in the ordinary and uſual way, and that therefore the King might provide for the Kingdom, by ſuch ways as he thought fit, and was not to ſuffer himſelf to be maſtered by the frowardneſs and undutifulneſs of his People, or to that effect?

He anſwered, That it is very true, that about twelve months ſince, by meer accident, he had a private diſcourſe with my Lord of *Strafford*, and ſome months after had diſcourſe with a Peer of this Houſe, my Lord *Conway* by name, meerly to let him know the difference that was between ſome Tenants of my Lord of *Straffords* and himſelf (the Earl of *Briſtol*) What uſe hath been made of it, he doth not know; But upon this, he doth conceive he comes to be Interrogated: It is almoſt twelves months ago, ſince this diſcourſe did happen, yet afterwards he was called, now a month or ſix weeks ſince, and was examined on oath on ſeveral Interrogatories; After he had well recollected himſelf, he did ſet down for his memory, what he could think of, and out of thoſe Notes and Papers, he did then make his Anſwer: Now his Examination being upon oath, he ſhall be very loath to depoſe particularly to words, but to the effect of what paſſed: And therefore he ſhall crave leave, not out of his examinations, but out of the words he then ſet down, to read the effect of what he then ſpake; for if a man be deprived of words, and tell not the ſenſe and coherence, and ſubſequents, he ſhall not do himſelf right, but may do a great deal of wrong to the party accuſed: and therefore, though it be ſomewhat the longer, he ſhall tell the circumſtances. It is true, That after the diſſolution of the laſt Parliament, he had diſcoure accidentally with the Earl of *Strafford*, but being many months ſince, he cannot preciſely depoſe unto the words that then paſſed; But he remembers, that ſpeaking then together of the great diſtractions of

thoſe

Article 23, 24.

thoſe times (*Videlicet*) touching the preſent things, that were then at *Lambeth* (for it was juſt about the time of the Mutiny of ſome Soldiers againſt their Officers) of the preſent great danger apprehended by the enſuing War (as was feared) of *Scotland*, and of the ſaid Parliament being broken, without ſupplying the King; he (the Earl of *Briſtol*) did then, in his diſcourſe chiefly attribute theſe diſorders to the breach of the Parliament; And, ſpeaking what might be the beſt way for help in theſe diſtreſſed times, he then conceived and ſaid, that he thought the beſt way to prevent any deſperate Undertakings, would be, to Summon a new Parliament, that might quiet the times for the preſent.

The expectation thereof might quiet the Diſtempers at that time. And, as for the War of *Scotland*, he did much fear the ſucceſs of it, unleſs the King ſhould be aſſiſted both with the Purſe and Affections of his People. And he alledging to my Lord of *Strafford* many Reaſons for it, conceiving it was not likely, that our Nation, lying under great Grievances, ſhould go willingly and chearfully to a War, labouring under the ſame Grievances with themſelves. My Lord of *Strafford* (he muſt ſpeak it, and confeſs it very ingeniouſly) ſeemed no way to diſlike the Diſcourſe; but ſaid, he did not conceive it to be counſellable at that time; neither did the preſent dangers of the Kingdom (which were not now imaginary, but real and preſſing) admit of ſo ſlow and uncertain a Remedy, as a Parliament was; for that the Parliament had, in the great diſtreſs of the King and Kingdom, refuſed now to ſupply the King, by the ordinary and uſual way of Subſidies: and therefore the King muſt provide for the ſafety of his Kingdom, by ſuch ways he ſhould think fit in his Wiſdom. And he (the Earl of *Briſtol*) doth remember that the ſaid Earl of *Strafford*, at the ſame time, did uſe the Sentence, *Salus Reipublicæ Suprema Lex*: And further (not to bind himſelf to words, but to the ſenſe) at the ſame time, the Earl of *Strafford* uſed theſe words, or words to this effect, That the King was not to ſuffer himſelf to be maſtered by the frowardneſs and undutifulneſs of his People, or rather (as he conceives) by the diſaffection and ſtubbornneſs of ſome particular men.

And this he ſaid from his former Notes, which he thought fit rather to uſe, than to truſt his memory.

Being asked, Whether by particular Men, he meant not particular Members of Parliament?

His Lordſhip anſwered, By his Troth he conceives ſo, for he was ſpeaking of the Parliament.

Richard Lord *Newburgh* being Sworn, and Interrogated, Whether he did not hear my Lord of *Strafford* ſpeak theſe words to his Majeſty, That the Parliament, in denying the King, had given him advantage to ſupply himſelf by other ways?

His

Article 23, 24.

His Lordſhip anſwered, That thoſe very words he never heard, nor words to that effect. But, he hath anſwered, in his *Depoſition*, what he hath heard; and he ſhall deſire to ſpeak a little before he Repeats it; And this it is: When he was Examined, he did then ſpeak that, which occurred to his memory; but, ſince the agitation of this buſineſs, ſomething elſe hath come into his thoughts; And, if he ſhall ſpeak that which his Conſcience now tells him, he ſhall deſire my Lords that then examined him, and the Gentlemen, not to miſinterpret him, if he ſhall add ſomething to what he formerly delivered. He cannot ſay, whether (when he heard theſe words) the King was by or no, for he doth not remember it; But, he very well remembers, that after the breach of the laſt Parliament, he heard, at the Gallery, or Council-Table, but he rather believes now at Council-Table, ſome words to this effect; That, ſeeing the Parliament had not ſupplied the King, his Majeſty might take other Courſes, for Defence of the Kingdom: But, though he cannot poſſibly Swear, my Lord Lieutenaut ſpake theſe words; yet, he verily believes he heard him ſpeak ſomething to this purpoſe: And, this is all he can teſtifie.

Earl of *Holland* witneſs.

Henry Earl of *Holland* Sworn, and Interrogated, Whether he did not hear my Lord of *Strafford* ſay to his Majeſty, That the Parliament, in denying the King, had given him advantage to ſupply himſelf, by other ways, or words to that effect?

His Lordſhip anſwered, That he needs not trouble their Lordſhips with Circumſtances, or long Diſcourſes; but, theſe words, to the beſt of his remembrance, according to his Oath, he conceives were ſaid to the King, upon the Diſſolving of the Parliament, at the Council-Table; That the Parliament, in denying to ſupply the King, had giving him advantage to ſupply himſelf by other ways. But, he will not tye himſelf ſo particularly to the words but, as at the time when he was examined before the Gentlemen of the Committee, he added, or words to this effect.

Being asked, By whom they were ſpoken?

His Lordſhip anſweted, By my Lord of *Strafford*.

Mr. *Whitlock*.

Mr. *Whitlock* then proceeded to the latter words of the 23*d Article*, which ſhew, in full and plain terms, what my Lord of *Straffords* deſign was, and what he would have laboured, and endeavoured his Majeſty to entertain.

The words of the Charge were read.

And, to prove them, the Examination of *Algernon* Earl of *Northumberland* was firſt read, taken the 5th *Decemb.* 1640.

To the 7*th* Interrogatory he ſaith, That the Earl of *Strafford* ſaid, That in caſe of neceſſity, and for the Defence and Safety of the Kingdom,

Article 23, 24.

Kingdom, if the People do refuſe to ſupply the King, the King is abſolved from Rules of Government: and, that every thing is to be done for the preſervation of the King and his People; and, that his Majeſty was acquitted before God and man; And he ſaith, that the ſaid words were ſpoken at the Committee for Scotch Affairs, in the preſence of his Majeſty; and, for the time of ſpeaking theſe words, he doth not perfectly remember. He ſaith, That theſe were the Diſcourſes mentioned in his Anſwer to the third Interrogatory, which made him believe what he hath anſwered to the ſaid third Interrogatory.

Their Lordſhips calling to have the third Interrogatory read, It was read.

To the Third and Fourth, he ſaith, That the Forces which were to come out of *Ireland*, were to land in the Weſt part of *Scotland*; but he doth not know, nor hath heard (to his remembrance) that theſe Forces, or any other, were to be imployed in this Kingdom, to Compel, or Awe the Subjects of this Realm, to yield to ſuch Taxes and Charges, as ſhould be Impoſed on them by his Majeſty. He ſaith, That he hath heard my Lord Lieutenant make ſome Diſcourſes to the King, whereby he believes, that in caſe the King were not ſupplied by Parliament, that ſome courſe was intended to raiſe moneys by extraordinary ways.

He ſaith, That the ſaid Lord Lieutenant did declare, in his Majeſties preſence, That the deſign was to land the Iriſh Army in the Weſt parts of *Scotland*.

Sir *Henry Vane* witneſs.

Sir *Henry Vane* being Interrogated, What words he heard my Lord of *Strafford* ſpeak to the King, before the Parliament, or after the Diſſolution of it, tending to this; That the King had tried the Affections of his People, and was Looſe and Abſolved from all Rules of Government: and on what occaſion?

He anſwered, That to the General Queſtion, of what was ſpoken before, or after the ſitting of the Parliament, he doth not remember: and there are no particular words asked him. But, to theſe words, which have been read, he ſhall, as near as he can, ingeniouſly deliver, what he did formerly depoſe; ever reſerving to himſelf words to the ſame effect. That he conſiders very well where he is, and the preſence before whom he ſpeaks; That he hath never, in the whole courſe of his life loved to tell an untruth, much leſs in this Honourable Aſſembly. That he ſhall, as near as he can, in this Caſe, tell their Lordſhips plainly and truly the matter. It is true (as my Lord Admiral hath declared to their Lordſhips) that theſe words he is to teſtifie, were ſpoken at the Committee of Eight for the Scotch Affairs; For the time, he ſhall crave pardon, if he cannot particularly ſpeak to it: But, thus far he ſhall ſay, It was clearly after the Diſſolution of the laſt Parliament; It is true, and if he do not very much miſtake, it was when the debate, whether a Defenſive or an Offenſive War, was controverted; And, to the beſt

that

that he can remember, and clearly as he conceives, there were words ſpoken, either theſe he ſhall now relate, or to the ſame effect, by my Lord of *Stafford*, who is now at the Bar. The occaſion being, Whether an Offenſive or Defenſive War? and Arguments were Controverted in it. My Lord of *Strafford* did ſay, in a Diſcourſe (for he muſt be ingenious, he muſt ſay all he hath depoſed, or is required) Your Majeſty having tryed all ways, and being refuſed; and, in Caſe of this extream neceſſity, and for the ſafety of the Kingdom, You are acquitted before God and Men: You have an Army in *Ireland*, which You may Imploy here to Reduce this Kingdom, or ſome words to this effect: And Sir *Henry Vane* added, That he deſires to ſpeak clearly to it; It is true, My Lord of *Strafford* ſaid theſe words, *You may*. But, by that, he (the Examinant) cannot ſay it was intended, but that the words were ſpoken; and, if it were the laſt hour he is to ſpeak, it is the Truth to his beſt Remembrance. *Article* 23, 24.

Being Asked (on the ſeveral motions of my Lord of *Clare*, and my Lord *Savil*) Whether, by this Kingdom, he meant the Kingdom of *England*, or *Scotland*? and, Whether it was meant, That he might imploy the Army in *England*, or in *Ireland*, becauſe he ſaid, The Army might be there imployed?

He Anſwered, That he ſhall, as near as he can: And, becauſe he would have Truth appear, he ſhall deſire, That if in this Caſe, any word fall, which may be uncouth in the ſenſe, they would reſort to his Examinations, for there it remains under his Hand and Oath.

But, to his beſt remembrance, he thinks, neither *then*, nor *there* were uſed; But, Your Majeſty hath an Army in *Ireland*, You may Imploy ro reduce this Kingdom: But, far be it from him (the Examinant) to Interpret them. He tells their Lordſhips the words, and no other.

Being directed by the Lord Steward to repeat what he had ſpoken.

He Anſwered, That he ſhall plainly and clearly do it; Theſe words were ſpoken (as my Lord of *Northumberland* hath teſtified) at the Committee of *Eight*, for the *Scotch* Affairs: It was on occaſion of a Debate, Whether an Offenſive, or a Defenſive War with the Kingdom of *Scotland*? That, on ſome Debate then, ſome being of Opinion for a Defenſive, ſome for an Offenſive War; he did ſay the words related, as he conceives. That in a Diſcourſe, the Earl of *Strafford* ſaid theſe words, or words to this effect; *Your Majeſty having tryed all ways, and refuſed; in this caſe of extream neceſſity, and for the Safety of your Kingdom and People, You are looſe and abſolved from all Rules of Government; You are acquitted before God and Men; You have an Army in* Ireland; *You may imploy it to reduce this Kingdom.*

Being Asked, How long this was after the Parliament was Diſſolved?

Article 23. 34.

He Anſwered, He cannot tell the time; but, it was ſuddenly after, or within few days after the diſſolution of the Parliament.

Being Asked (on my Lord of *Clare*'s motion) Whether theſe words, *You have an Army in Ireland*; did immediately follow theſe words, *You are abſolved*, &c.

He Anſwered, That, to his beſt remembrance, it did interpoſe; and, my Lord of *Strafford* did ſpeak it once or twice.

And, to his beſt remembrance, at firſt it was agitated, to preſs the Offenſive War, for, there were divers Reaſons given, as the Kingdom ſtood then, that there ſhould be an Offenſive War; and, he muſt ſpeak clearly, and plainly, he (the Examinant) did move for a Defenſive War: For the Subjects of *England*, how they ſtood affected to this War, they knew; and beſides a breach of a Parliament, he thought it would but induce an ill effect. On theſe Controverſions the words were ſpoken.

Mr. *Whitlock*. Here Mr. *Whitlock* obſerved, That theſe words were ſpoken in *England*, on this occaſion, of the King's trying His People, *&c.* which cannot be intended any other place but *Engluad*, where the Parliament was broken, and where the King had tried his People.

Being Asked (on the motion of the Earl of *Southampton*) Whether he ſays poſitively, my Lord of *Strafford* did ſay theſe words, or words to that effect, or whether to his beſt remembrance?

He Anſwered, That he ſpeaks poſitively, either thoſe words, or words to that effect.

E of *Clare*. The Earl of *Clare* deſiring further ſatisfaction, to the Queſtion formerly propoſed on this motion, Whether he meant by this Kingdom, the Kingdom of *England* or the Kingdom of *Scotland*?

L. H. Steward. The Lord Steward put his Lordſhip in mind, That Sir *Henry Vane* teſtifies to the words, not to the Interpretation.

Mr. Maynard. And, Mr. *Maynard* ſaid, The Queſtion is put, Whether this Kingdom, be this Kingdom?

Mr. *Whitlock*. And ſo Mr. *Whitlock* ſaid, They ſhould conclude their Evidence, conceiving the laſt words ſpoken, to be very fully proved; and, by connexion with thoſe other words proved before, he thinks it is very clear and manifeſt, That my Lord of *Strafford* had a ſtrong Deſign and Endeavour, to ſubvert and change the Fundamental Laws and Government of *England*, and to bring in an Army upon us, to force this Kingdom to ſubmit to an Arbitrary Power, That he ſhall not trouble their Lordſhips with repetition of words, nor with the application of them, for indeed, they be above application; and, to aggravate them, were to allay them; they have in themſelves more bitterneſs and horror, then he is able to expreſs: and ſo he left them to their Lordſhips conſideration and application, expecting my Lord of *Strafford*'s Anſwer to them:

Only

Only he desired their Lordships, in one point, to hear what Mr. Treasurer can say further, concerning the breach of the last Parliament, and what Words and Messages he heard of, during the sitting of that Parliament, Procured by my Lord of *Strafford*; unless their Lordships will reserve that, till the rest of the Witnesses come to morrow morning, and then they shall be ready to produce all relating to that point together. *Article* 20, 21, 22, 23, 24.

Whereupon liberty was granted for the reserving of them accordingly.

My Lord of *Strafford* did hereupon crave of their Lordships leave to recollect his Notes, being (as he said) a little Distracted, how to give Answer to those things; for, divers *Articles* are mingled together, which will make his Answer not so clear as otherwise he hoped to have made it, but trusts he shall do it still. E. of *Strafford*

He desires leave to Answer *Article* by *Article*: and, how much horror soever this Gentleman is pleased to say, there is in these words, he trusts, before he goes out of the Room, to make it appear, that though there may be errors of Judgment, yet nothing that may give offence, when the Antecedents and Consequents are brought together: and, that he shall give such an account, that (Whether or no their Lordships will clear him, as to the Charge of an Indiscreet Man, he knows not) but, as for Treason to the King, and his People, he shall give clear satisfaction, that no such thing was spoken or intended.

His Lordship desired He might be favoured with the sight of my Lord of *Northumberland*'s Examinations.

But this Mr. *Glyn* opposed, and said, His Lordship being to answer to matter of Fact, let him first say how it stands, and then prove it. Mr. *Glyn*.

To which my Lord of *Strafford* Answered, That, in truth, they make much more of it then he did; for he, trusts, by the blessing of Almighty God, to give the Answer of an honest Man to all Objections, he will not say of a discreet Man; and, once for all, he humbly besought their Lordships (and so he knows in their Wisdom and Judgment they will) to look what is proved, and not to what is enforced on those proofs from these Gentlemen: For words pass, and may be easily mistaken, but their Lordships having regard only to what is Deposed, and that they were to guide themselves by that. E. of *Strafford*.

After some Respit, my Lord of *Strafford* began to make his Defence as followeth.

That it will be very heard for him to know, in what order to Answer all the matters objected against him; But the best course he can take for his own direction (and he trusts it shall not be displeasing to their Lordships) will be, to go over the Article as they lie in order and under every Article to give his own Proof, and to repeat all Proofs prest against him for that Article.

The other day, an end was made of the 19*th*. *Article*, but then likewise the 20*th*. was entred into; so the middle part of that Charge is answered already,

Article 20. 21, 22, 23, 34.

already, touching words by him ſpoken at his laſt being in *Ireland*; and, to that he ſhall not need farther to Anſwer.

But, here is in it, that he did labour to perſwade, incite, and provoke to an Offenſive War againſt the ſaid Subjects of the Scotch Nation; and, to have been, by his Counſels, Actions, and Endeavours, a Principal Incendiary.

To prove this, they have offered firſt my Lord *Traquair*'s Depoſitions; and, he craved leave to repreſent to their Lordſhips, How he conceived his Teſtimony was delivered (*viz.*) That upon a Relation of his (the Lord *Traquair*) made at the Council-Board, he gave his Opinion as other their Lordſhips did; and, that it was condeſcended to by the Council-Board, That if the Commiſſioners of *Scotland* gave not ſatisfaction, that then the King might put himſelf in a poſture of War; ſo that he gave only an Opinion as others did.

And that is proved (as he conceives) by my Lord *Traquair*; who, among other parts of his Teſtimony recited, ſays; That there was no difference in the main amongſt the Votes: So that by both the Teſtimonies, it plainly appears, that his Opinion was no other then the Opinion of the reſt; And, certainly, as that Opinion can never be charged on any of the reſt of the Lords, in any kind whatſoever; ſo he truſts it ſhall never be charged upon him: for, he thinks, he is in a great ſafety and ſecurity, when he hath the concurrence of ſo many wiſer perſons than himſelf, in the Opinion he then deliver'd, and that is, for ſo much as was ſpoken at the Council-Board; And if it were needful (as he conceives it is not) to examine the Perſons that were there, it ſhould appear he delivered no Vote at all at that time, but the Vote of the Board: But, it is clear in their own Proofs, and their Lordſhips will (he hopes) juſtifie him in their Judgments, when it comes to Sentence.

The next thing is the Depoſition of my Lord *Morton*, concerning ſomething ſpoken at *York*, at a Council there called; he met before the Aſſembly of the Great Council of the Peers, where, he conceives, and, as he remembers, he (the Earl of *Strafford*) ſpoke ſomething to this ſenſe; That the more unreaſonable Demands of Subjects in Parliament, was a ground for King to put Himſelf in a poſture of War.

When this had been reſolved by the Council of *England*, he conceives it no great Crime for him to ſay ſo: For, upon the Queſtion put on thoſe Demands, it was ſaid, That it was fit for the King, to put himſelf into a Poſture of War, and into a Condition to reduce them by Force, if they could not be brought by fair means, to do their Allegiance and Duty to the King.

There is ſomething more, that my Lord *Morton* ſays; That he (the Earl of *Strafford*) ſhould ſay, It was a ſufficient Cauſe, without hearing their Reaſons, to declare a War.

This he (my Lord of *Strafford*) conceives under favour, is but a ſingle Teſtimony; And my Lord *Morton* gives himſelf the Anſwer; for he ſays, the Reaſons were not related when he was preſent, and therefore, in that my Lord of *Strafford* conceives there is little matter.

My Lord *Traquair* ſays one thing more, and that is, That the Reaſons were left to be alledged by the Scotch Commiſſioners: It is true, they were

were ſo: And my Lord *Morton* ſays, that he (the Defendant) ſhould ſay It was not matter of Religion that was the buſineſs, but they ſtruck at the root of Government, and were to be puniſhed by force. *Article* 20.

He further adds by way of Defence, That if he thought they ſtruck at root of Government, he thinks every Man will ſay, he had reaſon to ſay, it was fit to reduce them by force.

But he ſaid, he ſhould ſpeak further of theſe things anon, when he ſhould repreſent, what Words are in reſpect of Deeds, and what difference there is between what a Man ſays and does, in caſe of Treaſon.

But under favour, theſe two laſt are no part of his Charge, though he Anſwers them, for he is not charged with ſpeaking any thing to the King at *York*, the night before the Great Council, but only with ſpeaking at the Council-Board on my Lord *Traquair*'s relation; and this he conceives is all they bring againſt him, to convince him of the 20*th Atricle*, ſaving only the Teſtimony of my Lord of *Northumberland*, and of Mr. Treaſurer; And Mr. Treaſurer ſays, That it being agitated, Whether a Defenſive or Offenſive War were to be undertaken? he was for a Defenſive, and my Lord of *Strafford* for an Offenſive War.

He (the Deponent) cannot conceive, how this can conduce to make a Treaſon; if the War was reſolved on, the Debate, whether an Offenſive or Defenſive, ſhall not be Treaſonable: admit it to be as Mr. Treaſurer ſays, Mr. Treaſurer alledged his Reaſon, and he (the Earl of *Strafford*) alledged his, and God forbid it ſhould be Treaſon in one, or any other, they both doing their Duties, and delivering their Conſciences according to their Oaths; It was reſolved as fit to reduce them, and whether by an Offenſive or Defenſive War, being a free Council, they were bound to deliver Judgments to a Maſter, that was ſo Wiſe as to know what was beſt for his Service, and ſo to diſpoſe as he ſhould think fit.

My Lord of *Northumberland* ſays, That he (the Earl of *Strafford*) Adviſed to go on vigorouſly in an Offenſive War: Admit he did ſay ſo, it is not Treaſon, it was a free Debate; many Reaſons were given, and for him to give his Reaſons one way, was as free from Crime or Offence, as for them to give their Reaſons another way.

They ſay, that (as a chief Incendiary of the Troubles between His Majeſty and the Scotch) he ſeized divers Scotch Ships when he was in *Ireland*, and for this they have only Mr. *Barnewell*'s Teſtimony; and all he ſays, is, That Sir *Robert Loftus* told him, he had a Warrant to Seize the Ships, and they did Seize them accordingly, but by whoſe Warrant he doth not know.

But if your Lordſhips will know by whoſe Warrant it was, he ſhall give the beſt account he can, and offer ſome Proofs.

Sir *Robert Loftus* was the Vice-Admiral of the Province of *Lemſter*, himſelf was Vice-Admiral of the Province of *Munſter*; and about that time the Lord-Admiral ſent Direction and Command to the Vice-Admiral of *Lemſter* and *Munſter*, to Seize all the Scotch Ships then in thoſe Ports; ſo that what was done, was done by the Authority of my Lord Admiral; and if their Lordſhips will ask Mr. *Slingby*, he will ſay, that about that time there came theſe Commands, and by Virtue thereof theſe Ships were ſtayed.

Mr.

Article 20.

Mr. *Slingsby* being Interrogated, whether about that time my Lord Admiral ſent Warrants to the Vice-Admirals, to ſeize the Scotch Ships in their ſeveral Ports?

Mr. *Slingsby* Witneſs.

He Anſwered, That he received the Letters, juſt as my Lord was going into *England*, and diſperſed them to the Vice-Admirals; he executing that for *Munſter* as Deputy to my Lord, and the Ships were ſtayed after my Lords going into *England*, and not before.

E. of *Strafford*.

Whence my Lord of *Strafford* concluded, That it appeared, that he hath not been an extraordinary ſtirrer of difference between the King and the Subject, he never deſiring any thing but peace and quietneſs, and that all things might be ended (as he truſts they ſhall) with good underſtanding and perpetuity of effection amongſt our ſelves, and with them.

And there his Lordſhip left the 20 *Article*, hoping he had fully and clearly ſatisfied their Lordſhips, as to any crime in it, but whether his Judgement did miſlead him in an opinion, he will not diſpute, but will confeſs willingly, That no man is more ready to miſtake than himſelf.

His Lordſhip proceeds to the 21 Article, *which his Lordſhip read.*

This he ſaid, he perceives is a particular they have much inſiſted on, but have not (as he conceives) offered any ſubſtantial proof for what they alledge.

The firſt proof of the 21 *Article*, was my Lord Primates Examination, wherein he ſays, that in a diſcourſe betwixt them concerning the levying of money on the Subjects, in caſe of emminent neceſſity; his opinion was, the King might uſe his Prerogative as he pleaſes, but firſt it was beſt to try his Parliament.

This is the only Teſtimony in this particular; being *Singularis Teſtis*, he knows it will weigh with their Lordſhips accordingly; and then it is no otherwiſe, but by way of Diſcourſe and Argument; and how far that ſhall be layed to a mans Charge, he muſt ſubmit, in the regard of the reaſons ſubſequent in the next Article, ſo that he will reſerve himſelf to this point, till he comes thither. But the words fairly and clearly underſtood, abide a ſence no way of danger to him that ſpeaks them; For they are, *That the King may uſe his Prerogative as he pleaſes*, and the Kings pleaſure is always juſt, and will not uſe his Prerogative, but juſtly and fairly, and for a man to think otherwiſe, were a higher offence.

Beſides many things are lawful, which if they were done to the uttermoſt of the Power, that this Prerogative, and the Law of the Land gives him, might be prejudicial to his Subjects; which notwithſtanding, he in his goodneſs and diſcharge of the Truſt God Almighty hath put in him, never hath, nor will exerciſe, but ſuffer them to be imployed for the Subjects Advantage, according to the preſent occaſion: And therefore to ſay he mny uſe his Prerogative as he pleaſes, might be without prejudice to the Subject, and very lawful. But it is a greater offence by much, to think that

that the King will uſe his Prerogative otherwiſe, then as befits a Chriſtian and Pious King. *Article* 21.

And therefore he hopes theſe words ſhall not be laid to his Charge, as a ſignal Crime, and of ſo high, deadly, and capital a nature as Treaſon.

The next proof offered, is my Lord *Conway*, and he ſays, on ſome Diſcourſe (which being private between friend and friend, neither of them thought they ſhould come here to give an account of.) My Lord *Conway* Asked him, Where the means ſhould be for the Supply of the King's Army? He told him, in Parliament, and doubted not but the Parliament would ſupply His Majeſty, ſo far he was from thinking there ſhould be that misfortune, as the breach of that Parliament, but quite contrary.

And for the words, *That if the King ſhould be denyed in juſt and lawful things, he might juſtifie before God and Men, the ſeeking means to help himſelf, though it were againſt their will.* He muſt needs ſay, That to help a Man's ſelf is a very natural motion, for commonly a Man's ſelf is the laſt Creature that leaves him, and that which is natural to every Man, is natural to the King, who is accountable, not only for himſelf, but alſo for all his People.

The next is Mr. Treaſurer: And he ſays, That the 5*th* of *December* was Twelve months, to the beſt of his Remembrance, upon a Propoſition of a Parliament to the King, he (the Earl of *Strafford*) ſhould ſay, That if the Parliament ſhould not ſucceed, he would be ready to aſſiſt His Majeſty any other way. He ſees not where the heinouſneſs of the words lies, nor where the venom is that ſhould endanger him, as to his Life and Honor; And if he ſaid he would aſſiſt His Majeſty any other way, if it were needful, or any way conducing to his purpoſe, he is verily perſwaded, Mr. Treaſurer himſelf ſaid as much, but that is not material, for he conceives it not blameable in either of them to have ſaid ſo much; therefore he lays it not on him as a Recrimination. For the Queſtion was, a Parliament or no Parliament; a Parliament was the deſire of every Man to ſettle the Common-wealth by, that they might *ſtare ſuper vias antiquas*. And when they were moving His Majeſty for a Parliament, for him to ſay, he would help any other way, doth always preſuppoſe what muſt be preſuppoſed, that it muſt be in all lawful ways; The King cannot command unlawful ways; and he hath that opinion of His Majeſty, and of His Truth and Faithfulneſs, that He will not Command him any ways, but lawful ways, he having not carried himſelf in his Maſter's Service ſo, as that he can have an opinion of him, that he will do any thing, but what is honourable and juſt, and therefore he hopes it is ſpoken without offence, being fairly and rightly underſtood, That is, of lawful ways, the ways the King could Command, and the ways himſelf could ſerve him in, being no other. And this is all they bring to prove that part of the 21 *Article*, that concerns his procuring of His Majeſty to break the Parliament, and by Force and Power to raiſe Money on the Subjects; And this is all he ſays, and all they charge out of that Article.

This he muſt add, That when he ſays, he will ſerve the King in any other ways; in all Debates whenſoever he expreſſed himſelf to that purpoſe, he did ever in the concluſion end with this, That there was no ſafe nor ſure expedient, to ſettle a right underſtanding between the King and His People, and to make both happy, but Parliaments; as ſhall appear clearly

Article 21. clearly and plainly by that time he hath given his Proofs, and ſo it will appear, he meant only lawful ways.

The next particular wherewith he is charged, is to procure the Parliament of the Kingdom of *Ireland*, to declare their aſſiſtance in a War againſt the *Scots*.

For that if their Lordſhips pleaſe to give him leave, he thinks the thing it ſelf will beſt ſhew it ſelf, and therefore he deſired the Remonſtrance of the Two Houſes of Parliament in *Ireland* might be read.

And that of the Commons-Houſe was read, being in effect,

THe Declarition of the Commons-Houſe there, Importing; Whereas they have with one conſent, clearly given to His Majeſty, Four entire Subſidies towards His preſent preparations, to reduce His diſaffected Subjects, the Covenaters in Scotland, *to their due Obedience; They ſtill hope that His Majeſty's great Wiſdom, and unexampled Clemency, may yet prevail with the worſe affected of thoſe His Subjects, to bring them to that conformity and ſubmiſſion, which by the Laws of God and Nature they owe to him: But if His Majeſty ſhall be enforced to uſe His Power, to vindicate His juſt Authority: This Houſe for themſelves, and the Commons of this Kingdom, do profeſs, that their Zeal and Duty ſhall not ſtay here at theſe four Subſidies, but Humbly promiſe, That they will be ready with their Perſons and Eſtates, to their uttermoſt ability for His Majeſty's future Supply in Parliament, as His great Occaſions, by the continuance of His Forces againſt that Diſtemper ſhall require. This they pray, that it may be repreſented to His Majeſty by the Lord-Lieutenant, and Recorded as an Ordinance of Parliament, and publiſhed in Print as a Teſtimony to all the World and ſucceeding Ages; That as this Kingdom hath the happineſs to be Governed by the beſt of Kings, ſo they deſire to give cauſe, That he ſhall account this people amongſt the beſt of His Subjects.*

The Declaration of the Lords Spiritual and Temporal being of the ſame Tenor, was ſpared to be read.

Upon which my Lord of *Strafford* ſaid, That if he had procured this Declaration, it had been no Crime, conſidering what preceeded in the King's Council there. But he ſays, he hath no part in it, it was done with the greateſt freedom and cheerfulneſs that ever he did, or ſhall ſee a thing of that nature done: It muſt be aſcribed to that Nation, and the Zeal, Affection and Chearfulneſs, by which they diſcovered themſelves to the King's Service, to which there was no need to invite them. But if he had had a part in it, he might have juſtified it, conſidering what precedent Inſtructions he had from the King, which he could ſhew, but that he is loath to take up their Lordſhips time.

The next thing he is charged withal is, for Confederating with Sir *George Ratcliffe*, and together with him, traiterouſly conſpiring, to employ the Army raiſed in *Ireland*, for the ruin and deſtruction of the Kingdom of *England*, and of His Majeſty's Subjects; and ſubverting the Fundamental Laws of this Kingdom.

To which he ſaith, That truly if it be made appear, that he had ſo much as any ſuch thought in his Breaſt, he ſhould eaſily give Judgment againſt himſelf

himſelf, as not worthy to live. If he ſhould confederate to the deſtruction of the Country that bore him, and conſequently to the making of himſelf and his poſterity little elſe than Vaſſals, who were born a free people, by the goodneſs of Almighty God, and under the Protection and Juſtice of the King, and particularly of his Majeſty. *Article* 22.

That he hath a heart that loves freedom as well as another man, and values it as highly, and in a modeſt and dutiful way, will go as far to defend it: And therefore certainly he is not altogether ſo probably to be thought a perſon that would go againſt it; Nay he thinks that man doth the King the beſt ſervice, that ſtands for the modeſt Property and Liberty of the Subject. It hath been once his opinion, which he learnt in the Honourable Houſe of Commons, when he had the honor to ſit there; it hath gone along with him in the whole courſe of his ſervice to the Common-wealth, and by the Grace of God, he ſhall carry it to his Grave; That the Prerogative of the Crown, and Liberty of the Subject, ſhould be equally looked upon, and ſerved together, but not apart.

The proof they offer for this, is a ſtrange manner of proof; For Firſt they prove by Sir *Robert King*, what Sir *George Ratcliffe* ſaid; they will not admit the examination of Sir *George Ratcliffe*, but here is a Report upon a Report; And what ſays this Gentlemen? He tells of ſome time Sir *George Ratcliffe* ſaid, which was not concerning him (the Defendant) and was impertinent for him to repeat. But the Deponent ſays in the concluſion, That as he underſtood them, there was ſome danger towards, *&c.*

Then comes my Lord *Ranalaugh*, and reports the words of Sir *George Ratcliffe*, and in concluſion ſays, That by ſome things he did gather, he had fears there might be ſome intendment, to employ that Army in *Ireland*, or ſome other place; But he (the Defendant) offers to their Lordſhips, That what Sir *George Ratcliffe* ſaid, was nothing to him, and ſo could not Charge him with it. The meaneſt Subjects in the Kingdom cannot commit Treaſon by Letter of Attorney; and it is a priviledge which, though he hath the honor to be a Peer, he ſhall never deſire that Peer may do it by Proxy: Sir *George Ratcliffe* cannot ſpeak, nor procure Treaſon for him; and being Sir *George Ratcliff*'s words, they cannot be his (the Earl of *Strafford*'s) offence; and he hopes Sir *George* will anſwer them, as an honeſt Gentleman, and a Privy-Counſellor to the King, which he hath the honor to be in *Ireland*. And how Sir *Robert King* underſtood them, is as little, if not leſs to him (the Defendant) Sir *Robert*'s underſtanding of a thing can make no crime to him (my Lord of *Strafford*) And for my Lord *Ranalaugh*'s fears, he may take them back again, for it will be ſhewed they were groundleſs fears, *viz.* That this Army was intended for Engliſh ground: for him to imagine, that becauſe my Lord of *Strafford* ſaid, It was like to be a troubleſom World, and that he was willing to ſell his Land, therefore this Army ſhould come into *England*; Theſe be *Non ſequiturs*, and fancies of his own, and there was no colour for ſuch fears in his Lordſhip.

Beſides, my Lord *Ranalaugh* was not acquainted with the Deſign, and therefore might eaſily miſtake, but others were acquainted with it, in ſuch manner as is expreſſed in his Anſwer, and which (my Lord ſaid) he ſhall now declare, *viz.*

That there was no intention or purpoſe of bringing the *Iriſh* Army into *England*; and whereas to the Deſign he hath expreſt in his Anſwer,

Article 22. of having two Honourable Perſons to be made privy, and divers others to his Papers, he Humbly beſought their Lordſhips to favour him ſo far, as to ſuffer him to ask a Queſtion of three or four perſons he ſhall produce, profeſſing that there was never a thought in man's heart that he knew, nor never a word in any man's mouth, that ever he heard, that any part of the Army ſhould ever touch a foot on *Engliſh* Ground, as ſome of their Lordſhips, and His Majeſty knows, (where his Lordſhip added) If he may with Reverence name His Majeſty in that poor and diſtreſſed condition, wherein himſelf is; for he is not worthy of his protection, being in this miſerable Caſe, and therefore it was too much boldneſs for him, to name him; But his Lordſhip deſired the benefit of reading my Lord of *Northumberland*'s Examination, to the point of that Deſign.

Algernon, Earl of *Northumberland*, his Examination taken.

To the firſt Interrogatory he ſaith, That he hath often heard both His Majeſty, and the Earl of *Strafford* mention the 8000 Foot which were to be raiſed in *Ireland*; but to his beſt remembrance, he never heard any intention, of bringing the ſaid 8000 Foot, or any part thereof in to *England*; that the Deſign of landing them on the Weſt of *Scotland*, was often ſpoke of and ſo reſolved, as he believes.

To the Second he ſaith, He doth not remember that ever he heard the Earl of *Strafford* ſpeak or mention the reducing of the Subjects of *England* by the ſaid Army in *Ireland*.

Here my Lord of *Strafford* deſired their Lordſhips to take notice, that my Lord of *Northumberland* was one of the Committee of Eight for Scotch affairs.

The Lord Marq. *Hamilton* being Sworn and Interrogated, what he knew or believed concerning the raiſing of 8000 Foot in *Ireland*; or whether he was prviy to any intention of bringing the ſame, or any part of them into *England*?

Marquis *Hamilton* Witneſs.

His Lordſhip Anſwered, it is late, and time is precious to their Lordſhips, and ſo he ſhall anſwer as ſhortly as he can unto that Queſtion. It is very true, His Majeſty was Graciouſly pleaſed to acquaint him with the reſolution of raiſing that Army of 8000 Foot; And it is true, that the reſolution was, That theſe men ſhould Land in the Weſt of *Scotland*, about a certain Town, called *Aire*, or where my Lord ſhould find it moſt convenient: And for any thing he (the Examinant) knows there was no other deſign, he never heard of any, nor did he hear of the bringing them into *England*, for any ſuch uſe or end, or that they were ever to come to *England* at all.

Being Asked, Whether he heard my Lrod of *Strafford* ſpeak any thing concerning the reducing of *England*, by the Army.

His Lordſhip Anſwered, That he doth not remember my Lord of *Strafford* to have ſpoken any ſuch words.

Sir

Sir *Tho. Lucas*, Sergeant-Major-General of the Horſe of the King's Army in *Ireland*, who (as my Lord of *Strafford* ſaid) being with him here in *Candelmas*-Term was 12 months, in his own Lodging at *Covent-Garden*, ſomething paſſed between them, concerning the diſpoſing of the 8000 Foot, and 1000 Horſe, to what purpoſe they were raiſed. *Article* 22.

And being asked, What was the intent and Circumſtance of that diſcourſe?

He Anſwered, That about the latter end of *January* 1639, My Lord of *Strafford* told him, an Army was to be raiſed in *Ireland*, another in *England*, and with the Engliſh Army a Regiment of Horſe, whereof his (the Examinants) Troop ſhould be one, and ſome Regiments of Foot, and theſe Foot and Horſe were to joyn with the Iriſh Army; and that my Lord taking a Map of *Scotland* (which lay then in the Chamber) ſaid, Now I muſt tell you the greateſt ſecret in all the World and pointed with his finger towards that part of *Scotland*, which lies on the *Dunbar-Frith*: and ſaid, the Iriſh Army is to land here, and here I intend to take a Town (but he did not nominate the Town) and added, That he might the more eaſily do it, becauſe the *Scots* would not expect his Landing there, but it is likely, will imagine the Landing of the Iriſh Army at *Carliſle*, or ſome other part of *England*. And His Lordſhip ſaid further, That when he had taken this, he would ſtrongly fortifie it, intending it for a Magazine of Ammunition and Victuals for the Iriſh Army, and ſo he ſhould bring all the Country about to Contribution, even to *Edenburgh*, and when he is Landed, he (the Examinant) ſhould have notice, and ſhould joyn with the Iriſh Army; and he would ſend theſe Horſe, my Lord ſpake to him the Examinant, about 1000 (as he thinks) to convey him the Examinant to him.

My Lord of *Strafford* added, That the truth is there were Foot-Regiments of Sir *Tho. Wharton*'s, and Sir *Author Tyrringham*'s, and Sir *Tho. Lucas*'s Regnent of 500 Horſe; (that when the Iriſh were Landed in *Scotland*) were to be fetcht by Ships from St. *Rees*, and ſo to have joyned with the others, And it was ſuppoſed, 500 would have found no great difficulty on a ſudden for ſuch a march, and Sir *Tho. Wharton*, and Sir *Arthur Tyrringham* came over purpoſely, to have perſued his Deſign; by which appears, there was no deſign to bring them to *England*; and ſo a ſtrange Philoſophy it was to bring it into any Man's thoughts, it ſhould be ſo.

Mr. *Slingsby* being Interrogated, What he knew concerning the Deſign of the Iriſh Army? Mr. *Slingsby* a Witneſs.

He Anſwered, That he had the honor to be ſworn of the Council of War, and then the Charge of making the whole Magazine of Ammunition and proviſion for that Army, was conferred on him, That he reparied to *England* 10 days after my Lord, and perſued his received Inſtructions, for making preperations of Artillery and Ammunition directed, which he got all ſhipp'd and

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ready about *July*; that the ſlow proceedings of the *Iriſh* Army did then retard his directions from my Lord-Lieutenant, for the diſpatch away of thoſe Ships which were ready.

That my Lord was pleaſed to tell him, he muſt provide ſome ſtores for Magazine for maintainance of the Soldiers; that he was pleaſed to impart to him, That the Army was to Land in *Scotland* about *Aire*; That he thereupon proceeded to get a Map drawn of that Coaſt, and informed himſelf by that Map, and diſcourſed with Scotchmen in Town; That *Aire* was a barred Harbor, and that divers Ordinance was mounted to intercept the Landing, which he repreſenting to my Lord-Lieutenant, my Lord directed him to take conſideration of the burdens of the Ships, and whether they could be brought to ride near the Town, and that there might be proviſion of Flat-bottomm'd Boats to Land a good number at once; That he had a Warrant to receive 10 of the King's Flat-bottomm'd Boats, and 20 were provided by my Lord of *Antrim* the laſt year with Oars, and a floating Battery to ſecure the Landing of the Men; That he had direction to obtain Warrants from my Lord of *Newport* for 10, 16, or 20 pieces of Ordnance, That at firſt he had 10, afterwards 6 more Iron pieces for fortification, which (as my Lord of *Strafford* had imparted to him the Examinant) where to fortifie the place after Landing at *Aire*, and were Shipt and ſent away, but the Ships were not ſent a good while after, by reaſon of the ſlow proceedings of the Army.

Being asked whether my Lord of *Strafford* did not give him direction to get a Coaſt-Map, to let him know the particular place, where he intended to Land?

He Anſwered, That he was particularly commanded to get a Platt drawn, and the party that drew it is in Town, and can teſtify, that he deſigned him.

Being asked, Whether he had not Commiſſion, and Inſtructions from my Lord of *Strafford* to diſcharge ſome Ships for the leſſening of the King's Charge, and to take only ſo many, as might be fit for the ſervice?

He Anſwered, That he received that Command from my Lord-Lieutenant, to diſcharge moſt of the Ships, and none went about but them that were laden with Ammunition, and he received direction to take as few Ships as he could, to prevent charge to His Majeſty, and diſcharged ſome 10 or 14 Flemiſh Ships that were fraighted.

This my Lord of *Strafford* ſaid, he offers, becauſe he would not have it ſtick with any Man, That in the things concerning the King's Service, neceſſaries were not ready at the time; therefore he would not have any thing aſperſe him; for the King never commanded him any thing, but (according to what he underſtood,) he did it faithfully, and never any thing miſcarried.

Sir *William Pennyman* being asked, What my Lord of *Strafford's* Anſwer was to him, when he told my Lord of ſome News ſcattered, that the *Iriſh* Army were intended for *England*?

He

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He Anſwerd, He did Ask ſuch a Queſtion, and remembers it (and may be, more particularly than my Lord doth) That he was newly come from his Quarter, and my Lord told him, That ſome of their Lordſhips were come with a Petition to the King, and, among other things, Petitioned, That the *Iriſh* Army ſhould not come over, and wondered, their *Lord*ſhips ſhould Petition for that; for certainly, he ſhould know that particular as much as their Lordſhips; and proteſted, before God, they were never intended to ſet foot on *Engleſh* Ground: That he (Sir *William Pennyman*) reply'd again, Certainly a great many more were in a great deal of darkneſs and error; for, he had asked Sir *Robert Farrar* the Reaſon the *Iriſh* Army did not come over, it being the conjecture of a great many they ſhould Land at *Workington*; and his Lordſhip proteſted again, That he never knew they were to ſet foot on *Engliſh* Ground.

He (the Defendant) confeſſeth, he ſaid, The Army was to come to *Workington*, and joyn with the King's Forces at *Barwick*; For, he had no reaſon to prepare the *Scots* before-hand, but to diſguiſe the buſineſs, though he never thought nor heard of any purpoſe under Heaven, that any of them ſhould come on Engliſh Ground: And added, that he did not reſt here, but acquainted my Lord of *Ormond* the *Lieu*tenant General of that Army, my Lord Preſident of *Munſter*, my Lord Juſtice *Burlace* (who now is General of the Artillery) that the Army was to be ſent for *Knock-fergus*, the Northerly part of *Ireland*, and the buſineſs to be for *Scotland*, not for *England*: And, the ſending of all the Stores to the uttermoſt Confines, ſhews plainly and demonſtratively, that the Deſign wrought there, howſoever it was pretended in another place.

The next thing brought into his Charge, is from the Mouth of his own Brother; and, it is narrowly ſought after, even in his innermoſt Friends, his Brother, his Table, his Houſe, his Bed, in every place for ſomething to Convince him of that, which he thanks God he never was guilty of.

It is from a Teſtimony of Sir *Tho. Barrington*, who tells what paſſed between Sir *Thomas* and his Brother. But, in anſwer thereunto, he offers, That what his Brother ſays is nothing to him: his Brother is a young Gentleman; and, in things that concern the King's ſervice, and where there lies the Obligation of an Oath, his Brother knows no more from him, than a meer ſtranger, nor ſhall, though he knows him well: And therefore he hopes this cannot convince him, when the whole courſe of his actions goes another way.

But, thus much he muſt ſay for his Brother, before he be Examined, That when it was firſt opened in the Parliament Houſe, That one near to him in blood ſhould ſay, *England would never be well till it be Conquer'd again*; he could not imagine who in the world it ſhould be; And beſought their Lordſhips, that, ſince he now comes to know it, his Brother may be Asked, Whether he knows any thing of it?

Sir *George Wentworth* being to ſpeak as to the ſaid Diſcourſe, Mr. *Maynard* oppoſed this proceeding, as tending to the clearing of himſelf;

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ſelf; ſuppoſing, that if they had examined him, whether he had ſpoken the words or no, their Lordſhips would not have ſuffered him to be examined to charge himſelf; and their Lordſhips Judgments were humbly demanded, whether if he be not to be examined on one ſide, he ſhould be examined on the other? But *Sir George Wentworth* deſiring to be heard for his own Juſtification, Mr. *Maynard* further offered, That being for his own Juſtification, he could not (under favour of their Lordſhips) be heard.

Sir *George Wentworth.* Mr. *Maynard.*

And their Lordſhips directed it accordingly.

E. of *Strafford.* My Lord of *Strafford* offering to their Lordſhips, That it is eaſie to miſtake words, that paſs betwixt Man and Man, in ordinary and familiar Diſcourſe; and, that Memories that can remember things, ſo long ſince, he poteſted are quicker and freſher then ever his was.

The *Committee* thereupon offered to confirm the Teſtimony by ſome other Circumſtances; but their Lordſhips ſeeming ſatisfied, it was forborn.

And ſo my Lord of *Strafford* concluded that part of the Charge, which concerned his Conſpiring with Sir *George Ratliffe*, to bring over the *Iriſh* Army to the prejudice of *England*; thinking, as he ſaid, that he had clearly and evidently demonſtrated it to be truth, that will not be denied him, that the intendment was for no ſuch purpoſe, and conſequently there was no ſuch Conſpiracy to any ſuch intent: and therefore left it to their Lordſhips further, and wiſer, and noblet Conſiderations:

The next thing is the words Charged to have been ſpoken after his return into *England*, to ſundry perſons, declaring his Opinion, That His Majeſty ſhould firſt try the Parliament here, and, if they did not ſupply Him according to His preſent exigency, He might uſe His Prerogative as he pleaſe, and to Levy what he needed.

And, all the Proof of theſe words, is the Teſtimony of my Lord Primate, whereunto he hath given that Anſwer already, that he hopes will be ſatisfactory.

As to the other part, That the King ſhall be acquitted before God and Men, if he take other courſe to ſupply Himſelf, though againſt the good will of his Subjects.

This he hath Anſwered already, and ſhall not need to repeat: But, he finds ſome things in the Proofs, which, whether they mean to make uſe of, to prove any of the words he knows not: and therefore he deſires to touch on them a little.

The firſt Proof hereof, Is the Teſtimony of Mr. Comptroller, that he, the (Earl of *Strafford*) ſhould ſay ſomething of deſerting the King, but he remembers not the particulars: In which words he conceives there is nothing that can make him Criminal before their Lordſhips.

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Article 22.

The next is of what my Lord of *Briſtol* ſays; whoſe diſcourſe came in upon ſome Difference between the Tenants of his Lordſhips (the Earl of *Briſtol*) and his (the ſaid Earl of *Strafford*) The diſcourſe he remembers very well, my Lord of *Briſtol* honouring him with a viſit when he was ſick; and, he remembers, ſomething was ſpoken to that effect and purpoſe, as it is in the Teſtimony. But, What is this as to the Charge laid againſt him? In the Charge, there is only ſuch words that may prejudice him, but nothing that may forfeit his Life, Eſtate, and Honor. As in the caſe of Extream and unavoidable neceſſity, *viz.* The Invaſion of a Foreign Ennemy, when there are not time to call a Parliament. And, the King may in that caſe uſe, as the Common Parent of the Country, what Power God Almighty hath given Him, for preſerving himſelf, and his People, for whom He is accountable to Almighty God, is a thing quite different, from what is in an ordinary Caſe. He confeſſes, his opinion is, the King hath a power abſolutely to uſe all poſſible means for the ſafety of the Publick. In theſe Caſes He hath a Power given Him by God Almighty, that cannot be taken from Him by others; neither, under favour, is He able to take it from himſelf. If this be a fond and fooliſh Opinion, he craves their Lhrdſhips pardon; but, he thinks, a man ſhould not forfeit his Life and Honor, and Poſterity, for a fooliſh Opinion; God forbid that Common-Law, or Statute-Law, ſhould make that Treaſon in any man.

So that he acknowledges, There was ſome ſuch a diſcourſe; But, all things taken together, carries the State of the Queſtion quite another way, than when taken to pieces.

My Lord of *Briſtol*,s Teſtimomy ſays further. But my Lord of *Strafford* then ſaid, The King was not to be Maſtered by the frowardneſs or willfulneſs of His People, or rather by the diſaffection of ſome particular men.

To which words, he ſays, If he did remember them, he would acknowledge them: But, being then in that condition, delivered from a great and long ſickneſs, infirm and weak, both in the powers of his mind, and faculties of his Body, if he be not able to recollect every thing, it is no marvel: But, he relies ſo much on the honor and nobleneſs of my Lord of *Briſtol*, that ſeeing he ſays that he ſaid it, he will not deny it, though he cannot remember it. But he muſt ſay withall, That his Teſtimony cannot work any thing towards him further, than a ſingle Teſtimony can do in this caſe: and therefore, without offence, he ſhall deſire, in this particular, to reſerve that benefit to himſelf, that the Law in this caſe gives him, in ſuch ſort, as hereafter he ſhall be bold to put their Lordſhips in mind of, that is, how far a ſingle Teſtimony may work to the prejudice of a man, charged with High Treaſon.

The next Teſtimony is my Lord of *Newburgh*; That he heard me (the Defendent) ſay, or words to this effect, That ſeeing the Parliament had not ſupplied the King, his Majeſty might take other Courſes for the Defence of the Kingdom.

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Article 22. These words I do (ſaid the Defendant) acknowledge: And he truſts there is no offence in this ſaying; for I conceive, that the King is not ſecluded, nor any one elſe, in a fair, and juſt, and an honourable way, from doing the beſt for himſelf, and his own preſervation; but thoſe other Courſes that were intended, were juſt and lawful Courſes; He muſt put that grain of ſalt into all the reſt of his Diſcourſe; that it was ment of no other ways or Means, but ſuch as were allowed by the Laws of the Land, and were fit for a Gracious and Pious King to uſe: and ſo underſtood, he knows no reaſon, but the King ſhould be left to ſupply Himſelf, in all the fair and juſt way he can, if the Parliament ſhould not ſupply him.

The next Teſtimony is my Lord of *Holland*'s, and his Lordſhip ſays, That at Council-Table my Lord of *Strafford* ſhould ſay, That the Parliament having deny'd the King, gave Him an advantage to ſupply Himſelf otherways.

But he ſays ſtill, other lawful ways; It gave Him advantage to uſe His Preogative in lawful ways; further than otherwiſe perhaps out of his goodneſs, he would have done: Therefore, giving thoſe words that Interpretation, he concieves they cannot be laid to him as a Charge of High-Tteaſon

The next is the Teſtimony of my Lord *Northumberland*, who ſays, My Lord of *Strafford* ſaid, That in caſe of neceſſity, and for Defence and ſafety of the Kingdom; if the people refuſe, the King might do every thing for the Preſervation of his People.

This brings it much to the other buſineſs before ſpoken of, it being in caſe of neceſſity, for Defence and Safety of the Kingdom, and to be uſed for preſervation of the People; for, he muſt needs ſay, That is his Opinion, grounded upon that Maxim, *Salus Populi ſuprema Lex*; In theſe things when ordinary formes cannot be had (for when they may be had, to go to extraordinary, is not right) but, when the ordinary ways fail, and the occaſion gives no time, God forbid, but the King ſhould employ the uttermoſt of His Power, Wiſdom, and Courage, for preſervation of Himſelf and his People; And to ſay it with limitation, under favour, doth ſtate the Queſtion quite otherways, then if the words were taken alone, and not put together. But that with theſe Limitations he ſpeak, both theſe things, and divers others, will more fully and clearly appear in the next ſucceeding Article: for, here he is Charged with ſpeaking things at large; but there at the Council-Board, and there it will come in properly.

At which time he ſhall deſire to examine ſome of their Lordſhips, and, it ſhall appear, words of this Nature went always in this ſort from him, in caſe of a Foraign Invaſion, in caſe of an Enemy actually entred, or to be entred, not otherwiſe: which makes it another Queſtion, then as by the Antecedents and Conſequents it is laid in the Charge.

Beſides, this offence is, but words ſpoken by way of Argument,

ment, in Common Diſcourſe, betwixt man and man, without any further, or other proceeding, or execution upon theſe words: and, Shall theſe be brought againſt a man, and charged on him as High-Treaſon? God forbid that ever we ſhould live to ſee ſuch an Example in this Kingdom: A matter of infinite prejudice and danger to every man; for when that is done, no man can be ſafe. *Article 22.*

Is there any thing more ordinary, than for men in Diſcourſe, to ſeem to be of a contrary Opinion to what they are, to invite another man to give Reaſons, perhaps to confirm him in his own Opinion, though he ſeems to Argue againſt it?

Is any thing more familiar, than for a man to ſeem to be of an Opinion, to gain a Reaſon to confirm that Opinion which he is of, and contrary to that he ſeems to defend, by this means to get the ſtrength of other mens Reaſons to confirm his own by?

Again, Is any thing more familiar in private Diſcourſe, between man and man, than when one is ſo far on that ſide the Line, for the other to go as far himſelf, that he may meet the firſt man in the midſt? If a man meet with one that is as far below, as himſelf is above, and ſhall ſeem to maintain further, than his Reaſon and Belief carries him, to bring the other to moderation, Shall this be charged on him as a Treaſon?

If words ſpoken to Friends, in familiar Diſcourſe, ſpoken in one's Chamber, ſpoken at one's Table, ſpoken in one's Sick Bed, ſpoken, perhaps, to gain better Reaſon, to give himſelf more clear light and judgment, by reaſoning; If theſe things ſhall be brought againſt a man, as Treaſon; this, under favour, takes away the Comfort of all Human Society: By this means we ſhall be debarred of Speaking (the Principal Joy and Comfort of Society) with wiſe and good men, to become wiſer, and better our lives. If theſe things be ſtrained to take away *Life*, and Honor, and all that is deſirable, it will be a ſilent World; a City will become an Hermitage, and Sheep will be found amongſt a Crowd and Preſs of People; and, no man will dare to impart his Solitary Thoughts, or Opinion, to his Friend and Neighbor, but thereby be debarred from conſultiug with wiſer men then himſelf, whereby he may underſtand the *Law*, wherewith he ought to be Governed.

But theſe be but words all the while; and, if he ſhall ſhew, that words of a higher nature, ſhall, by the Judgment of an Engliſh Parliament, be thought not to be Treaſon; Why ſhould he think, or imagine, or fear that their *Lord*ſhips will make theſe indiſcreet and idle Expreſſions of his, reach ſo high as his Head, and take the Comfort of his *Life* and Children from im.

No Statute makes Words Treaſon: and, if the Fundamental *Law*, the Common *Law* of the *Land* had made them Treaſon, ſurely the Parliament would never have ſet a Mulct upon them.

This Statute is, 1 *Ed.* 6. *cap.* 12. as followeth,

BE it Enacted by the Authority aforeſaid, if any perſon or perſons, do compaſs, and imagine, by an open Preaching, expreſs words, or ſaying, to depoſe, or deprive the King, His Heirs, or Succeſſors, from His, or their Royal Eſtate, or Title, or openly publiſh, or ſay, by expreſs words, or ſaying, That any other perſon, or

Article 22. *perſons other then the King, His Heirs or Succeſſors, of right ought to be,* &c.

Theſe be words of higher nature, than thoſe charged upon himſelf; and yet the firſt offence is made but loſs of Goods, and Impriſonment; for the ſecond, loſs of Lands, Goods, and Impriſonment; the third time is only made Treaſon.

He added, That their Lordſhips will never think theſe words, being flym-flam, that paſs in a negligent manner betwixt man and man, ſhall ever be brought to be Treaſon.

And, whereas 25 *E.* 3. hath theſe words,

When a Man doth Compaſs, or Imagine the death of our Lord the King.

The very words are mentioned in 1 *E.* 6. *When a man doth Compaſs, or Imagine, by open Preaching,* &c. *to Depoſe the King.* And the firſt Statute provides, That if a man ſhall compaſs the Death of the King, and be not thereof attainted by open Deed, it is not Treaſon, And, the Statute of *H.* 4. and 1 *Mar.* concurr with this, and ſhew, That the intent of theſe was to take away the danger the Subject might incurr, if bare words ſhould be brought againſt him as Treaſon.

And, it hath been the Wiſdom of their Lordſhips noble Anceſtors, and this State, that they have always endeavoured to conclude the danger that may fall on the Subject by Treaſon, that it might be limited and bounded, and that it might be ſo underſtood as to be avoided; and, he hopes, we ſhall never be ſo improvident, as to ſharpen this two-edged Sword againſt our ſelves, and the faces of our Poſterity, and to let the Lion looſe to tear us all in pieces; for, if way be given to Arbitrary Treaſon, and to the Wits of Men, to work upon it, to prejudice or queſtion Life, it would be very dangerous. And, he believes, That in this *Hall* there would be Actions of Treaſon that would fly as familiarly up and down, as Actions of Treſpaſs: And therefore ſince by the goodneſs of our King, and the wiſdom of our Anceſtors, we have been thus provided for, why we ſhould entangle our ſelves into the ſtraights they could not endure, but endeavoured, by all means, to free themſelves from the dangers that familiarly follow them, he cannot ſee.

To the Firſt Part of the 23*d. Article*, concerning the laſt Parliament, the Gentlemen have reſerved themſelves till to morrow, and therefore he ſhall not need to ſpeak to that, and ſo there will remain nothing for him to Anſwer, but the laſt part of the Act, with the next Charge, concerning words ſpoken at the Council-Board, or at the Committee for Scotch Affairs, *viz. That His Majeſty having tried the Affections of His People, He was looſe and abſolved from all Rules of Government, and was to do every thing that Power would admit; and, that His Majeſty had tried all ways, and was refuſed, and ſhould be acquitted both before God and Man; and that he had an Army in* Ireland, *which He might employ to reduce this Kingdom to Obedience.*

Concerning this particular, he ſays, he remembers not any thing but what Mr. Treaſurer is pleaſed to ſpeak of: And, whereas Mr. Treaſurer, as concerning that part, ſaid, He loves to ſpeak the truth; my Lord of *Strafford* ſaid, He doubts not but he doth, for that we ſhould all do, he is ſure of it; but, Mr. Treaſurer has reverſed his Teſtimony, in ſaying, that he will not ſpeak to the very words themſelves, but

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to theſe, or words to the like effect; and if he be not miſtaken, and to the beſt of his remembrance, *That, His Majeſty having tryed all ways, and being refuſed, in this extream neceſſity, and, for the ſafety of the Kingdom, and People, he might do,* &c. *And, that Your Majeſty hath an Army in* Ireland, *which You may employ* (*there*, he ſaid at firſt) And afterwards (*which you may employ to this Kingdom.*) And, he ſaith, he doth not interpret theſe words, but gives the words clearly and plainly, as my Lord of *Northumberland* hath declared, and that it was ſoon after the Diſſolution of the laſt Parliament, to his beſt remembrance, and at the Commitee of 8; and, he thinks, my Lord ſpake them poſitively, or ſomething to that effect. *Article 23.*

Now, whereas he calls in to his aid my Lord of *Northumberland*, under favour, my Lord of *Northumberland* declared no ſuch words, but abſolutely denies, in his Examination, that he ever heard my Lord of *Strafford* mention the reducing of *England* by an *Iriſh* Army: It is true, my Lord of *Northumberland* goes thus far, That he hath heard him ſay ſomething, whereby he might conceive, there was intended ſome Courſe of raiſing Moneys by extraordinary ways.

And, that my Lord of *Strafford* confeſſes is very true, for, if it were by borrowing 3 or 400000 *l.* it is an extraordinary way; the King's Revenue could not ſerve theſe occaſions, there muſt be other ways, and Loan was one, and that fair, and honourable, and juſt.

So then, as to this Teſtimony, the Defendant offers to their Lordſhips, that he hath examined my Lord of *Northumberland*, and he knows no ſuch thing; He hath examined my Lord Marqueſs of *Hamilton*, and his Lordſhip is pleaſed to ſay, He remembers no ſuch thing at the Committee of Eight.

He deſired my Lord Treaſurer might be Examined to the ſame Words.

The Lord Treaſurer being asked, Whether he ever heard my Lord of *Strafford* in any private Council, or Debate with the King, tell him the ſaid words? L. Treaſurer Witneſs.

He Anſwered That he never heard my Lord ſpeak thoſe words of the *Iriſh* Army, nor anything like it; and he repeated, That he never heard his Lordſhip ſpeak it in the manner propoſed, nor any thing like it.

Being Asked (on Mr. *Maynard*'s motion) Whether he ever heard my Lord of *Strafford* ſay, the King was looſe and abſolved from all Government. Mr. *Maynard.*

He Anſwered, That he deſired time to conſider of that. He remembers not any ſuch thing, but he reſerves himſelf for that. L. Treaſurer Witneſs.

Being Asked on the like motion, Whether he heard my Lord of *Strafford* ſay any thing to that purpoſe, That the Parliament had deſerted, or forſaken the King?

Article 23.

He Anſwered, that he remembers not that they heard any ſuch thing.

Lord *Cottington* being Asked (on my Lord of *Strafford*'s motion) Whether he heard my Lord of *Strafford* ſay ſuch words, That the King had an Army in *Ireland*, and he might employ them to reduce this Kingdom?

L. *Cottington.* He Anſwered, That he hath heard the Queſtion heretofore, and is very confident he did never hear him ſay it in his hearing; and, that he hath a great deal of Reaſon to be confident of it.

Mr. *Maynard.* Being Asked (on Mr. *Maynard*'s Motion) Whether he heard my Lord of *Strafford* ſay, That the King was Abſolved, or *Looſe* from all Rules of Government, or words to that effect?

L. *Cottington.* He Anſwered, That, as he takes it, he hath been Asked to that Queſtion too, and, he thinks he never heard the words, for it was (as he thinks) a very abſurd Propoſition, and he could not have heard it with patience.

Being Asked, on the like motion, Whether he heard him ſay, The Parliament had forſaken, or denyed, or deſerted the King, or words to to that effect?

He Anſwered, That for ſaying, The Parliament had not provided for the King, the Parliament was ended, and had not provided for the King; and, That the Parliament had not provided, or left the King without Money; It is very probable he did ſay it; and he thinks, he did ſo, for it was the truth.

Being Asked, Whether he ſaid, The Parliament had denyed the King?

He Anſwered, That what his words were, It is a hard matter for him to ſay; That he ſaid, the Parliament had denyed, or left the King, he will not Swear.

Being Asked on like motion, Whether he perſwaded the King that he was to be ſupplyed *in extraordinary ways*?

He Anſwered, That he cannot Swear that neither.

Mr. *Maynard.* Where Mr. *Maynard* obſerved, That my Lord of *Strafford* himſelf granted, and yet that's forgotten.

L. *Cottington.* To which my *Lord Cottington* Anſwered, That if the Gentlemen would have heard him out, he ſhould have given good ſatisfaction. He hath been Examined, Whether my *Lord* of *Strafford* uſed thoſe words, *Extraordinary ways*; and he cannot ſay he did; but he hath heard him ſay, The King ought to ſeek out all due and legal ways, and to employ His Power, and Authority, and Prerogative, *Caſtè & Candidè*, he remembers theſe words very well.

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For cloſe of his Defence to theſe words, That his Majeſty had an Army in *Ireland* to reduce this Kingdom, witneſſed by Mr. Treaſurer. My Lord of *Strafford* ſaid Mens memories are weak, and the beſt may be miſtaken, or miſremember, and may think one man ſays that which another man ſays, or that a man ſays that which in Truth he did not ſay, as it is in this Caſe. Their Lordſhips have had all the light that is poſſible for him the Defendant to give them. *Article* 23.

My Lord of *Northumberland* being examined on Oath, ſays, He remembers not the words. My Lord Marquis *Hamilton* remembers them not. My Lord Treaſurer of *England* remembers neither that, nor any thing like it; My Lord *Cottington* remembers no ſuch thing, and is well aſſured, he never heard him ſay any ſuch thing. Here are all that are left of the Committee, ſave my Lord of *Canterbury*, and him (the Defendant) cannot examine, otherwiſe he would.

Secretary *Windebank* is a little too far off to be heard at this time, and if their Lordſhips could ask him, whether the Defendant ever ſpake the words on the faith of a Chriſtian and a Gentleman, he will take his Oath, he doth not think nor believe he ever ſpake them, but believes as conſtantly, as poſſible can be, that he never ſpake them; He would be loath to ſwear he did not, it being ſo long ſince: But when his words ſhall more particularly, and ſpecially be remembred by another man, than by himſelf, he muſt commend that memory, that obſerved what he ſaid, ſo perfectly, as to be able to give a better account of them than himſelf, the party that ſpake the words, or any man in the company beſides.

My Lord further inſiſted, That this concerns him very nearly, for it would be a grievous Charge that is on him by this means (though not in the intendment) of the Gentleman that urges it, who (he hopes wiſhes him well) if he ſhould be thought to be an overthrower of the Liberties of the Subject by a foreign Army.

However, it is a ſingle Teſtimony, and no more, and that ſingle Teſtimony (without any prejudice to the Teſtimony) cannot riſe in Judgement againſt him; Nay, he cannot be Indicted nor Arraigned of High Treaſon for it, by the Statutes of 1 *E.* 6. *Ca.* 12. the laſt Proviſo of it, in theſe words.

> BE *it Enacted by the Authority aforeſaid, that no Perſon or Perſons after the Firſt day of* February *next coming, ſhall be Indicted, Arraigned, Condemned, or Convicted of any offence of Treaſon, Petty-Treaſon, or Miſpriſon of Treaſon, or any words before ſpecified, after the Firſt day of* February, *for which the ſaid Offender or Speaker ſhall ſuffer any pain of Death, Impriſonment, Loſs, Forfeiture of Goods, Lands or Tenements, unleſs the ſaid Offender, or Speaker be accuſed by two ſufficient and lawful Witneſſes, or ſhall willingly without violence confeſs the ſame.*

And if their Lordſhips will give leave to conſider the firſt part of the words being fairly and indifferently interpreted, and with the ſecret reſervations, men ought to ſpeak things withal (for we ought to think juſt things, and that men will do nothing but fairly, and theſe are conditions implied, when we ſpeak of the Sacred Majeſty of Kings) let that be implied, it could not be High Treaſon to tell the King, That having tryed the affections of his people, he was looſe and abſolved from all rules of Government; That is, all ordinary rules, and was to do every thing that

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Article 23. Power would admit; that is, that Power would lawfully admit, and that His Majeſty had tryed all Juſt and Honourable ways, and wa srefuſed, and ſhould be acquitted both of God and Men.

The laſt words, that the King had an Army in *Ireland*, which he might imploy to reduce this Kingdom, he denies; and if the other words be fairly interpreted with the reſervations granted a man in that caſe, being ſpoken of ſo great a Perſon as the King, nothing in them can turn ſo much to the prejudice of the ſpeaker.

But he deſires leave to offer the Antecedents and Conſequents of all that he ſaid in Council, whereupon this is gathered; and then they find the Caſe otherwiſe ſtated, than as it is ſtrained in the Charges. God forbid any man ſhould be judged for words taken by pieces, here a word and there a word, where the Anticedents and Conſequents are left out, for then Treaſon might be fetcht out of every word a Man ſpeaks; as for example, If one asks him, Whether he will go to ſuch a place, he tells him by way of Anſwer, he will kill the King as ſoon; the other Swears, he ſaid, he would kill the King; it is very true indeed, but if the other words be added, it will then imply, that he will be ſure not to kill the King, and therefore he will be ſure not to go to the place. And if the words be taken together, he puts the Caſe thus; In caſe of abſolute neceſſity, and upon a foreign Invaſion of an enemy, when the enemy is either actually entred, or ready to enter, and when all other ordinary means fail in this caſe there is a Truſt left by Almighty God in the King, to imploy the beſt and uttermoſt of his means, for preſerving of himſelf and his people, which, under favour he cannot take away from himſelf. And as this did preceed theſe words, ſo there were divers reſtrictions added to them; for he ſays, this muſt be done only, and upon no other pretence whatſoever, but for the preſervation of the Common-wealth, that it muſt be done *Candidè, & Caſtè*, That if it were done on any other pretence whatſoever, than clearly and fairly, for preſerving the Common-wealth, that would prove it to be oppreſſive and Injurious, which otherwiſe rightly employed would, become a Pious and Chriſtian King; and that when the preſent danger of the Common-wealth was, by the Wiſdom, and Courage, and Power of the King prevented, and the publique Weal ſecured; in a time proper and fit, the King was obliged to vindicate the Property and Liberty of the Subjects from any ill prejudice, that might fall from ſuch a Precedent; and untill the Prerogative of the Crown, and Liberty of the Subjects are ſo bounded, that they may be rightly underſtood by King and People, (which cannot be without a Parliament) his Majeſty and they can never look to be happy. Now if he ſhall make this appear to be true (as he hopes he ſhall) then he conceives he ſtates their Lordſhips a quite different queſtion, from that brought againſt him in the Charge, and brings an opinion ſo concluded, and ſhut up with reſtrictions, and with neceſſity, and with unavoidable danger that were otherwiſe to fall on the Common-wealth, as he truſts; cannot bring any manner of ill conſequence whatſoever publickly or privately to any Creature.

For this purpoſe, he deſired the favour to examine ſome of the Noble Lords preſent, and the Firſt, the Examinations of my Lord of *Northumberland* might be read, and they were read accordingly.

To the Third Interrogatory he ſaith, That the Earl of *Strafford* declared his opinion, That his Majeſty might uſe his Power when the Kingdom was in danger, or unavoidable neceſſity, or words to that effect.

To

Article 23.

To the Fourth, That the ſaid Earl did often ſay, That that Power was to be uſed *Candidè & Caſtè*, and an account thereof ſhould be given to the Parliament, that they might ſee it was only imployed to that uſe.

To the Sixth, That the ſaid Earl of *Strafford* ſaid, That this Kingdom could not be happy, but by good Agreement in Parliament, between the King and His People.

My Lord of *Strafford* obſerved, That this was at the very ſame time, and let all the World judge, whether he had any intention to ſubvert the Fundamental Laws of the Land, or no?

Next he deſired my Lord Marquis of *Hamilton* might be examined to the Interrogatory my Lord of *Northumberland* was examined to.

Marquis *Hamilton* examined to the ſaid Interrogatory, (*viz.*) Whether the ſaid Earl of *Strafford* delivered his Opinion, how far the King might uſe a Power after the breach of the late Parliament, did not put the Caſe when there was an unavoidable neceſſity, upon actual Invaſion, or an Enemy's Army ready to enter the Land?

Marq. *Hamilton* a Witneſs.

His Lordſhip Anſwered, That he hears the Queſtion, and remembers the ſame Queſtion was asked him formerly on his Oath, when he was Deponed, and he then ſaid as now, he could not call to mind what my Lord ſaid in that Point.

Whether my Lord of *Strafford* did not ſay, That that Power was to be uſed *Candidè & Caſtè*, and if it were uſed for any other purpoſe, it would be unjuſt and oppreſſive?

His Lordſhip Anſwered, That he hath heard him uſe thoſe words often to His Majeſty, and on them, or immediately after, he declared his Opinion, That it would never be happy in this Kingdom, till there be a right underſtanding between the King and his People, and that could not be, but by a Parliament.

Whether he did not ſay at that time, That the preſent danger provided for, and all which ſetled, the King was bound to preſerve the Liberty and Propriety of the Subject, from the prejudice of ſuch a precedent?

His Lordſhip Anſwered, He remembers ſomething of that, but cannot poſitively ſay, becauſe he cannot tell what the precedent was.

Being asked (on Mr. *Whitlock*'s motion) What time he heard theſe words from my Lord of *Strafford*, in the ſaid Second Queſtion?

He Anſwered, profeſſing that his memory is not good, and if it fails not him in this, he may boldly affirm, he heard my Lord of *Strafford* ſpeak the words, both before, and ſince the Diſſolution of the laſt Parliament.

Being

Article 23. E. of *Strafford.*

Being Asked (on my *Lord* of *Strafford's* motion) Whether His Majeſty was pleaſed to declare to the Lords of the Council, That he had perfect and full intelligence, that the Scotch Army intended to march into *England.*

M. *Hamilton.*

He Anſwered, He remembers very well His Majeſty had frequent Advertiſements of the *Scots* intentions to come into *England*, he knows it very well, and he had not done his Duty if he had concealed it, for he was one of them that told him of it.

L. *Goring a* Witneſs.

Lord *Goring* being examined to the Firſt and Second Queſtion, propoſed to my Lord Marquis.

His Lordſhip Anſwered, That he remembers ſomething to this purpoſe, and *Candidè & Caſtè* makes him call it to mind, but the particulars he cannot remember; *Candidè & Caſtè*, for uſing the King's Power, he hath heard often.

Mr. *German a* Witneſs.

Tho. German being examined to the ſame Queſtion.

Anſwered, That he would be very loath to ſay any thing that doth not perfectly occurr to his remembrance; he remembers that divers times at Council-Board, my *Lord* ſpake theſe words, *Candidè & Caſtè*, and he remembers them very perfectly, but what day and time, he remembers not; but he remembers very perfectly, he heard my Lord of *Strafford* ſay, it muſt be on an urgent and unavoidable occaſion, that any by-courſe ſhould be taken, or put in practice, but what day and time he cannot tell; To the exact words of the Interrogation he cannot ſay, but ſomething to the ſenſe, as he (the Examinant) delivers them.

Being Asked, Whether my *Lord* of *Strafford* hath not concluded, That things will not be right, till there be a right underſtanding between the King and His People, or words to that effect?

He Anſwered, That he thinks no Man hath the Honor to ſit at that Board, but will give him that Teſtimony, that he hath often ſpoken, That the greateſt happineſs that can occurr to the King and People, is the happy agreement and underſtanding between them.

Mr. *Glyn.*

Being Asked (on Mr. *Glyn's* motion) Whether thoſe words were uſed before the Diſſolution of the Parliament, or ſince?

He Anſwered, To his beſt remembrance before, yet he doth not deny but they may be ſaid ſince, that he muſt leave the *Lords*, whoſe memories ſerve better to diſtinguiſh times.

L. Treaſurer.

The Lord Treaſurer being examined to the Firſt Queſtion, propoſed to my *Lord* Marquis.

He Anſwered, That he doth not remember the Diſcourſe about his buſineſs.

Being Asked to the Queſtion *Nov.* 2. propoſed to the *Lord* Marquis.

He

Article 23.

He anſwered, That phraſe of *Candide & Caſte*, he remembers very well, were uſed more than once; but whether they were applied to this particular, he cannot ſpeak: He remembers my Lord uſed the words in ſuch a ſenſe, and the interpretation of them was chaſtly and honeſtly, but the other part he cannot remember.

Being asked to the Queſtion, *Nov.* 2. propoſed to the Lord Marquis?

He anſwered, That he remembers not any of it.

Lord *Cottington* being examined to the Queſtion *Nov.* 1. propoſed to the Lord Marquis? L. *Cottington.*

He anſwered, That if his Depoſition be looked upon, it will be found, he did ſay, my Lord put the Caſe ſo, and he now ſays it again, he the Examinant did declare, and underſtand that my Lord—

Being asked to the Queſtion *Nov.* 2. propoſed to my Lord Marquis?

He anſwered, That he thinks he hath anſwer'd this already; he remembers the words *Candide & Caſte*, and that the Power the King had for the preſervation of himſelf, his Crown, Poſterity, and People, ought to be uſed *Candide & Caſte*, in all fair and juſt ways.

Being asked whether my Lord of *Strafford* did not ſay, That the King was bound after the preſent danger provided for, to free the Subject in Propriety and Liberty, from the prejudice of ſuch a precedent?

He anſwered, That he ſaid the neceſſity being paſt, and the work done, the King ought to repair it, and not to leave any precedent, to the prejudice of his People.

Being asked, Whether my Lord did not ſay that in concluſion, all muſt be ſetled by Parliament, and till all the diſpute betwixt the Prerogative of the Crown, and Liberty of the Subject be determined, neither King nor People ſhould be happy?

He anſwered, That he verily believes many of their Lordſhips have often heard him ſay it; He hath heard my Lord ſay it to the King at the Council-Table. It hath been always his poſition, and to himſelf the Examinant, he hath ſaid often, both before the laſt Parliament, and after it was broken; and it was an ordinary diſcourſe to his Majeſty, That his Majeſty could not be happy, till there were an happy Union betwixt himſelf and the Parliament, and the Prerogative and Liberty of the Subjects were determined.

And my Lord of *Strafford* deſired to have ſo much benefit of their Lordſhips Juſtice, as to have the Examinations of my Lord Keeper, (which are not yet come in to theſe points) reſerved. And now he ſaid he had E. of *Strafford.*

Article 23. ſtated to their Lordſhips truly and juſtly the Queſtion, concerning theſe words that are by pieces and patches charged; and which (taking the whole contexture of the Diſcourſe, from the beginning to the ending) repreſent them quite otherwiſe (as he conceives) than might ſeem to be enforced againſt him.

He offered this further to their Lordſhips, That they ſee plainly and clearly proved, that at all times, and frequently, he hath preſumed (by his Majeſties favour and good leave) to expreſs himſelf, how neceſſary it is, for the happineſs of the King and People, that all theſe matters of difference ſhould be ſetled and bounded, and that by Parliament: and that till they were ſo bounded, neither his Majeſty nor they could be happy: ſo that it was far from going againſt the antient grounds of Government, that have been here ſetled in that ſingular Providence and Wiſdom of our Anceſtors; and never ſhall he contribute any thing but to the maintenance and preſervation of them, in all honeſt and honourable ways and means whatſoever; and if theſe words were ſpoken with that moderation and qualification, that the Power to be uſed muſt be a lawful Power, and the ways to be taken lawful ways, they were no way ſubject to exception.

Beſides, There is one Argument that clears the intendment and meaning of the words, as he conceives, a great deal more prevalently, than if thoſe words of lawful Power, and juſt and honourable ways, had been put in; And that is, that nothing hath been done by the King or the Council, againſt the Laws and Cuſtoms of the Realm, in purſuance of them, where it hath been any breach on any Liberty or Propriety of the Subject? What extraordinary Courſe hath been taken not warrantable by Law? None that he knows of; ſo that there being nothing but juſtly and fairly adminiſtred, the very Deed done, ſhews them to be ſpoken with that meaning, and ſo to be interpreted ſo much the rather, by how much doing well, is better than ſaying well; And the worſt that can be made of them, they are but words and no more; and for the excuſe of them, their Lordſhips well remember what he ſaid concerning the Statute, they can never amount to Treaſon, and before they ſhall be brought to him in a Criminal Charge, he beſought their Lordſhips to obſerve ſomething he ſhall offer to them.

Theſe words charged on him, were not wantonly, or unneceſſarily ſpoken, or whiſpered in a corner, but they were ſpoken in full Council, where he was by the duty of his Oath obliged, to ſpeak according to his Heart and Conſcience, in all things concerning the King's ſervice; ſo that if he had forborn to ſpeak what he conceived, for the benefit and advantage of the King and People (as he conceived this to be) he had been perjured towards God Almighty, and now it ſeems by the ſpeaking of them, he is in danger to be a Traitor. If that neceſſity be put upon him, he thanks God, by his Bleſſing he hath learned not to ſtand in fear of him that can kill the Body; but he muſt ſtand in fear of him that can caſt Body and Soul into Eternal pain. And if that be the queſtion, That he muſt be a Traitor to Man, or perjured to God, he will be faithful to his Creator; and whatſoever ſhall befall him from a popular

rage

rage, or his own weakneſs, he muſt leave it to God Almighty, and to their Lordſhips Honor and Juſtice. *Article* 23.

Nothing is more common, than for a Counſellor to be of one opinion when he comes out of his Chamber, and to have that opinion he delivers, preſently after confuted and cleared by the wiſdom and Prudence of his fellow-Counſellors, of better underſtanding than himſelf. And in this caſe (when Opinions are thus delivered, and when there are alterations of theſe Opinions, upon the very debate) that an Opinion thus propounded, ſhould riſe in judgment, to convince a man of High Treaſon, it is very hard; nay, it is to be thought, that this was the very caſe in this particular. The Opinion was, according to his Heart and Conſcience given, and for any thing appears to their Lordſhips, ſomething was ſaid at that Board by others, wiſer than himſelf, that altered him in that Opinion; for there was never any thing moved by him, to reinforce that Propoſition, he reſted quiet with it, he offered it not again; there was never any thing done in purſuance of that advice, either by himſelf, or any body elſe, which ſhews he did not preſs it, but was rather perſwaded by better reaſon, that it was fit to be let alone. An Opinion may make an Heretick, but he never heard before, that Opinion ſhould make a Traitor. And though Opinions may make an Heretick, yet they muſt be held pertinaciouſly, and againſt the light of a mans own Conſcience; here no pertinacy appears, no conteſtation, nothing done againſt the light of his Heart and Conſcience, nothing of Obſtinacy, Frowardneſs, and Perverſneſs; but ſimply, (ſimply indeed in all reſpects) he did in the duty of his place, deliver his Opinion modeſtly and fairly, and when he had done there, he left it, and perſued it no further: ſo that ſuch an Opinion as this, would not have made an Heretick, much leſs a Traitor.

In the laſt place, he humbly beſeeches their Lordſhips not to make themſelves ſo unhappy, as to diſable themſelves and their Children, from undergoing the great Charge and Truſt of the Common-wealth. Their Lordſhips have it from their Fathers, they are born to great Thoughts, and are nurſed up for the great and weighty Imployments of the Kingdom; and God forbid that any but themſelves, *Cæterig paribus*, ſhould have this great Truſt, that their Birth and Breeding, and Ranks procure for them, under the King's Goodneſs.

But let this be admitted, That a Counſellor delivering his Opinion under an Oath of Secreſie and Faithfulneſs at Council-Table *Candide & Caſte* with others, ſhall upon his miſtaking, or not knowing of the Law, be brought into queſtion, and every word that paſſeth from him, out of a ſincere and noble intention, ſhall be drawn againſt him, for the attaining and convicting himſelf, his Children, and Poſterity; under favour, after this ſhall be ſo, he doth not know any wiſe and noble Perſon of Fortune, that will upon ſuch perillous and unſafe terms, adventure to be a Counſellor to the King: and therefore if their Lordſhips put theſe hard ſtrains, and tortures upon thoſe that are the Counſellors of State to his Majeſty, when they ſpeak nothing but according to their Hearts and Conſciences, (for we that are not of the profeſſion of the Law, are not bound to ſpeak the Law, we can tell what in our Hearts and Conſciences we conceive Honourable and Juſt, but what's legal, is another mans buſineſs.) This ſhall diſable their Lordſhips from thoſe great Imployments, to which their Birth and Thoughts do breed them, and make them more uncapable than any other inferior Subjects: And therefore he beſeeches their Lordſhips to look

Article 23. on him ſo, that his misfortune may not bring an inconvenience upon themſelves. And ſo he beſought their Lordſhips to pardon what he had ſaid, with a great deal of diſorder, and if their Lordſhips take him into conſideration, they will find that nothing hath appeared in him, but what is honeſt, juſt, and faithful to King and People; though they were not ſo adviſed and diſcreet, and well weighed as they ought to be, yet he hoped their Lordſhips are ſo honourable and good, as not to lay their Charge to him as High Treaſon.

To the 24*th Article*, he ſaid he made no Anſwer, there being nothing ſpoken to it; And ſo he concluded his Defence to theſe *Articles*.

Mr. *Whitlock did thereunto Reply in ſubſtance as followeth.*

Mr. *Whitlock*'s Reply. That their Lordſhips have heard with a great deal of patience, this long Defence made by my Lord of *Strafford*, and deſired the like patience from their Lordſhips, in hearing the Reply, which he doubts not but they ſhall obtain, and give a clear Anſwer to all my Lord of *Strafford* hath ſpoken in his own Defence; and how that it comes not at all to excuſe him in this caſe.

My Lord is pleaſed to make it his ſuit, that their Lordſhips will not be guided by enforcement of words againſt him, but by the words themſelves; and that Mr. *Whitlock* deſired likewiſe, preſuming that their Lordſhips will not be guided by my Lord of *Strafford*'s interpretation of theſe words to another ſenſe, than the words bear, but judge according to the clear underſtanding, and common ſignification of them, further than which he will not ſtrain them.

Whereas my Lord excuſes his words, that the Demands by the Scotch in their Parliament, were a ſufficient ground of War, becauſe he gave no other opinion than the reſt of the Council then did; their Lordſhips may be pleaſed to obſerve, That my Lord *Traquair* teſtifies, that ſome of the Cuncil were of another opinion at that time, and that theſe words were ſpoken before the reaſon of thoſe Demands were given; and that there was a clear difference betwixt my Lord of *Strafford*'s advice, and the advice of the reſt: It is evident by the opinion delivered by him long before that time in ſentencing of Mr. *Stuart* in *Ireland*, where, after the Pacification, he was pleaſed to call the Scots Rebels and Traitors, and that he would root them out Stock and Branch that took not the Oath; And he ſaid in his Anſwer, That when he came out of *Ireland* into *England*, he found the Affairs of *Scotland* ſo diſtempered, that he thought fit to reduce the King's Subjects there by force.

His Lordſhip ſays, That if the Demands ſtruck at the root of Government, then it was fit to ſay, they ſhould be reduced by force; But the words were ſpoken before the Reaſons of the Demands were known, and before he could know how they could be warranted by the Laws of that Kingdom; and it is part of the Charge of the Houſe of Commons, That he ſaid, *They ſtruck at the root of Government*, which it appears they did not; for thoſe very Demands, againſt which my Lord of *Strafford* delivered his opinion, are ſince enacted by the Parliament of *Scotland*, and confirmed by his Majeſties Royal Authority in the Treaty, which is very well known to divers of their Lordſhips ſitting here.

My

Article 20.

My Lord ſays, It was firſt reſolved a War ſhould be had; and then, for him to debate, Whether an Offenſive or Defenſive War, is no Crime: but, that receives a clear Anſwer; for, it was his Reſolution, his Advice, That there ſhould be a War, and an Offenſive War; which ſhews his Deſign againſt the Kingdom of *Scotland*.

My Lord labours to prove, That the ſeizing of the Scotch Ships was not by his Warrant, but by Warrants otherwiſe procured. That was not inſiſted on in the Charge, and therefore they will not inſiſt upon it in the Reply, there is enough beſides.

My Lord is further pleaſed to ſay, That there is no ſubſtantial or concluding proof of his intent, that the Parliament ſhould be only called, to try whether there would be ſupply given or no; and, that is only depoſed by my Lord Primate, a ſingle Teſtimony: But, my Lord Primate concurs with others, in the ſame ſenſe and meaning.

To my Lord *Conway*'s Teſtimony, my Lord ſays, That, for the King to help himſelf, is a natural motion, and proper to every one: But, the other words of my Lord *Conway*'s Teſtimony, That the King might help and ſupply himſelf, though it were againſt the will of his Subjects, muſt be underſtood, not of a natural, but a violent motion, and it appears to be my Lord of *Strafford*'s Deſign to have it ſo.

He comes to the Teſtimony of my Lord Treaſurer, and ſays, That doth not at all touch him, that he promiſed to aſſiſt the King in any other way, in caſe the Parliament did not ſucceed.

But, this proves his intent, That if the Parliament were diſſolved (as he was willing it ſhould, as it will afterwards appear) he would aſſiſt the King in any other way whatſoever: He took a good Pattern, *Stare ſuper vias antiquas*, and we ſhall prove that too; but, this was not *via antiqua* of Parliaments, to propoſe Supplies in the firſt place, and to put off conſideration of Grievances, to urge nothing but to give to the King; and, before a Reſolution, whether they would give or not, to inform againſt the Parliament by Miſinformation.

My Lord mentions the Declaration of the Houſe of Commons in *Ireland*, concerning the giving of Four Subſidies for the King's ſupply of the War with *Scotland*, which is in the Charge, but was not inſiſted upon; But, by ſhewing this, my Lord of *Strafford* hath procured that which is likewiſe in the Charge, That the Parliament of *Ireland* did engage themſelves in the War againſt *Scotland*, and by the Preamble of his Anſwer,

This was in my Lord of *Strafford*'s knowledge, and may be eaſily proved to be by his Procurement, being the Chief Governor there.

He ſays, That had he ever entertained ſuch thought, as the words proved, import, he ſhould give Judgment againſt himſelf: But, as no mans thoughts can be proved but by his words and actions, ſo the words proved do manifeſt, that his thoughts were no other, and ſhew clearly his intention, to bring in an Army on us to reduce this Kingdom.

My

Article 21, 22.

My Lord calls Sir *Robert King*'s Teſtimony a Report on a Report; and, ſays the like of the Teſtimony of my Lord *Ranalaugh*, which ſhall be anſwered, when he comes to lay the whole matter together, according to the courſe of opening the Articles.

Divers Witneſſes his Lordſhip produces, to prove, that the 8000 Foot raiſed in *Ireland*, were deſigned for *Scotland*; and particularly for the Town of *Aire*, which is very improbable; for that Town (as was informed, and will be proved) was, at that time, very well fortified; and the Coaſts thereof, and the Haven ſo barred, and narrow, that one of my Lord of *Strafford*'s one Witneſſes ſays, there could be no probability of Landing an Army there: The like may be ſaid of the *Frith* of *Dunbarton*, that was fortified long before. And if their Lordſhips repair to ſome part of my Lord of *Strafford*'s Anſwer, where he ſays, they were to be landed in ſome places near the Country of my Lord of *Argile*, to divert him: Theſe places are ſo far from his Country, and ſuch Arms of the Sea, and unpaſſable Mountains are interpoſed, that they could not be landed there with any intention to go to *Argyle*'s Country.

But, admit their were a primary intention of this Army in ſome part of *Scotland*, the Witneſſes ſpeak only to what was intended before the Army was raiſed; But, when the Army was on foot, my Lord of *Strafford*'s intention might be changed, and it ſeems it was; for he laboured to perſwade his Majeſty, to make uſe of it to reduce this Kingdom.

He ſays, The Teſtimony touching Sir *George Wentworth*'s words is ſingle, and ſpoken by his Brother, and could not reach him; but, though one Witneſs teſtifies the words, yet it may be made appear to their Lordſhips, that preſently after the words ſpoken, Sir *Thomas Barrington* related them to other Gentlemen, who are ready to teſtifie, that he ſo related them.

But, their Lordſhips ſeeming ſatisfied in that point, directed him to proceed.

Next my Lord Diſcourſes of my Lord of *Briſtol*'s Teſtimony, and the differences of opinion between them, touching the ſummoning of a Parliament. But, my Lord of *Briſtol* proves the following words, That the King was not to ſuffer himſelf to be maſtered by the frowardneſs of his People, *&c.* and to theſe, no Anſwer is given.

To which, Mr. *Whitlock* ſaid, he would further anſwer in the General Reply; And ſo for the words proved by my Lord of *Newbrough*, my Lord of *Holland*, and divers other Noble Lords of this Houſe.

My Lord of *Strafford* was pleaſed to mention the Statute of 1 *E.* 6. *cap.* 12. where, to compaſs by preaching, or ſaying, to deprive the King, is not for the firſt offence Treaſon, though words of a more tranſcendent and high nature; and hence he inferr'd, that the words charged on him are not Treaſon.

But that Statute is only of Treaſons ſpoken of the King, but not of Words and Counſels, that adviſe the thing to be done; And, there is no Queſtion, but at this day, for any Man to Adviſe and Counſel the Deſtruction of the King, is High-Treaſon, notwithſtanding that Statute. Theſe words

words charged on my Lord, are a Declaration of his Intention, to ſubvert the Laws and Government of the Kingdom, and, the uſe made of the words, is not, that they are in themſelves Treaſon, but as they prove that Intention. But, this is the work of another time, being matter of Law, and therefore Mr. *Whitlock* ſaid, he would ſay no more to it now, neither doth it require his Anſwer, nor is it at all to this buſineſs. *Article* 22, 23.

My Lord did much inſiſt on it, that there was no mention by any of the Lords that were of the Committee for the Scotch Affairs, concerning the words of bringing the Army out of *Ireland*, to reduce this Kingdom, divers of their Lordſhips being to that point examined: But, Mr. Treaſurer ſwears in the Affirmative, he heard the words ſpoken; and, when they come to ſum up the reſt of theſe words, and applying them to this, ſhew the dependance they have one upon another, their Lordſhips will ſee plainly, that muſt be his Intention, and that there could be no other interpretation of his words: It is poſſible, for ſome that were at the Council, not to hear the words, and yet that diſproves not a Witneſs, that ſays in the Affirmative, he did haer the words. And, though ſome of my Lords do not remember ſome other paſſages, as, That his Majeſty was looſe, and abſolved from all Rules of Government, yet that is proved by two Witneſſes; and, though the reſt remember them not, yet that ſtands clearly proved.

Other things, which ſome of their Lordſhips did not remember, were proved by three Witneſſes: Whence it may be deduced, that, what Mr. Treaſurer depoſes is to be believed, though ſome of my Lords that were preſent did not remember it.

By making a Sum and Collection of the words, and comparing one with another, it will appear very clear, that my Lord of *Strafford*'s intention was, to bring in that Army to reduce the Kingdom.

And firſt, their Lordſhips will remember the words that paſſed betwixt Sir *George Ratcliffe*, and Sir *Robert King*; and the Relation between my Lord of *Strafford* and Sir *George Ratcliffe*; And, before my Lord of *Strafford* came out of *Ireland*, he gave direction to Sir *George Ratcliffe*; and afterwards, on a Diſcourſe, Sir *Robert* ſaying, how my Lord of *Strafford*, and how the ſaid Sir *George Ratcliffe* had leaſt cauſe to deſire a War; Sir *George* replied, We are ingaged (not himſelf only) but *We* (ſpeaking of my Lord of *Strafford*) are ingaged in a War: and, Sir *George* ſays further, That the King hath 30000 men, and 400000 *l.* in his Purſe, and a Sword by his ſide, and if he wanted money, who would pity him? which cannot be intended but by raiſing of money on the Subjects of *England*.

But beſides, their Lordſhips may remember the Expreſſion of my Lord *Ranalaugh*, and Sir *Robert King*, that theſe Forces were intended to be uſed for raiſing moneys here; and, that my Lord of *Strafford* offers to ſell his Land in *Ireland*. Beſides, his Brother ſaid, the Commonwealth is ſick of Peace, and would not be well till it was conquer'd again, which muſt imply Force, and an Army to do it.

It is a Proof of my Lord of *Strafford*'s intention, that a Parliament ſhould be ſummon'd to give Supply, and, if not, that then it ſhould be Diſſolved, and other Courſes ſhould be taken; My Lord Primate's Depoſition is, that, in caſe of neceſſity, his Majeſty might uſe his Prerogative, might levy what he needed, only firſt it was fit to try the Parliament, and,

if

Article 23. if that ſucceeded not, then to uſe his Prerogative as he pleaſes.

Lord *Conway*. My Lord *Conway* proves the ſame Intention; my Lord of *Strafford* ſaying to him, That if the Parliament ſupplied not the King, his Majeſty would be acquitted before God and Men, if he took ſome other courſe to ſupply himſelf, though againſt the will of his Subjects; And, it cannot be intended to be againſt their will, but it muſt be by force; for, if it be with their will, it is voluntary.

And Mr. Treaſurer proves, that my Lord would be ready to ſerve the King any other way; that is, by Force, by Arms, or any way whatſoever.

Their Lordſhips may remember his words to his Majeſty, That the Parliament had denied to ſupply him; that they had forſaken him; which was only to incenſe his Majeſty againſt Parliaments.

He told my Lord of *Briſtol*, in that Diſcourſe with him, That his Majeſty was not to ſuffer himſelf to be maſtered with the frowardneſs and undutifulneſs of his People: and, if his Majeſty was not to ſuffer himſelf to be maſtered by them, but to maſter them, it cannot be, but by ſtrength of others.

My Lord of *Holland* proves more fully (and my Lord of *Newbrough* concurs with him) that his Majeſty had an Advantage, to ſupply himſelf other ways, becauſe the Parliament had denied to ſupply him: And there be no other ways (ſave Parliament-ways) but extraordinary, and illegal ways.

My Lord of *Strafford* hath much laboured, to anſwer and qualifie the laſt words, but he comes ſhort of it; And thoſe words are as fearful, and of as high a nature, as can be expreſſed by a Subject, and by a Counſellor to his Soveraign.

The firſt part of the ſaid laſt words, are clearly proved by the Teſtimony of my Lord of *Northumberland* and Mr. Treaſurer, That the King had tried his People, and was Abſolved from all Rules of Government: That he was to do all that Power would admit, that he had tried all ways and was refuſed, and ſhould be acquitted before God and men.

The latter part Mr. Treaſurer only reaches to, that his Majeſty had an Army in *Ireland*, which he might imploy to reduce this Kingdom: and comparing theſe words with the former, if the King be abſolved from all Rules of Government, Which way can that Power be uſed, but by bringing in an Army, the latter words being dependant and conſequent to the former? and, if they be compared together, and ſum'd up, their Lordſhips will be ſatisfied, that this was the intention of my Lord of *Strafford*, to bring an Army out of *Ireland* into this Kingdom to reduce it, and that his purpoſe was, by a ſtrong hand, to compel the Subjects of the Kingdom, to ſubmit to an Arbitrary Power, and whatſoever ſhould be impoſed on them.

And

Article 23.

And whereas my Lord makes it a great part of his excuſe, that nothing was executed, upon this Counſel, we muſt give humble thanks to His Majeſty, for if his Counſel might have taken place, no doubt but that had been done, which was laboured and adviſed to be done; but a Gracious Soveraign would not take hold on thoſe Counſels, but rejected them, as to that, though ſo much was done on other Counſels, and Miſinformations of my Lord of *Strafford*, as my Lord of *Strafford* will never be able to juſtifie.

That nothing is done, is no excuſe to him, It is an Obligation to the King's Subjects, the more to Love and Honor Him; but, it ſhews clearly, my Lord of *Strafford*'s intention, if it might have taken place, to have changed the Laws, to have brought an Army upon us, and, by them, Compel us to ſubmit to an Arbitrary Power.

And, ſo Mr. *Whitlock* concluded, that he ſhould trouble their Lordſhips' no further at this time, having Anſwered moſt of the things my Lord of *Strafford* hath inſiſted on, and if he hath forgotten them, he hopes he ſhall be holpen by ſome of his Colleagues; But, he ſuppoſes, it appears clearly, that my Lord of *Strafford*'s intentions were to ſubvert the Laws, to ſet a Diviſion betwixt the King and His People; and, though his Lordſhip is pleaſed to make ſomething ſlight of it, as not to be matter of Treaſon; yet, this compared with his other Actions, declaring his Intention and Deſigns, it proves it not only to be *Crimen læſæ Majeſtatis*, but alſo *Republicæ*.

Mr. *Maynard* ſeconded Mr. *Whitlock*, and ſaid, That ſomething he ſhould preſume to add, My Lord of *Strafford* excuſes himſelf, becauſe he was not alone in the Council againſt *Scotland*; Thus far he was alone, the reſt concluded upon a Hypothetical propoſition: *if the Demands were unreaſonable, then a War was fit.* But in two Propoſitions he was alone; Mr. *Maynard.*

Firſt, That before the Reaſons were heard, the unreaſonable Demands of Subjects in Parliament, were a ſufficient ground for the King, to put Himſelf into a Poſture of War;

And *Secondly*, That theſe Demands were not matter of Religion, but ſtruck at the Root of Government.

And, when he Anſwers that Point, he takes it for granted, That if he ſays they ſtruck at the Root of Government, the Reſolution was juſt.

In his Defence, he inſiſts upon two things, matter of Excuſe, and matter of weakning of the Teſtimonies produced.

For the matter of Excuſe, of what he ſaid to the King in private, it was teſtified only by one, who was then preſent, and at other times in Council, That there would be no happineſs till there was a good Agreement betwixt King and People.

Whence Mr. *Maynard* obſerved, That they think not, that all he ſpake is nought; but they produce proofs, that he did ſpeak nought; they think him not ſo unwiſe upon all occaſions, to ſpeak words of ſo high a Conſequence: He hath taken another courſe to weaken their Teſtimonies; and, nothing is ſo ſtrong, but (if that courſe be allowed that he uſes) it will take off the ſtrength of it.

Mr. *Maynard* ſaid, He hath heard of breaking a thing to pieces, by taking to pieces, and if my Lord of *Strafford* ſhall take every parcel of the proof,

Article 23. proof, and ſay, this is a ſingle Teſtimony, This is matter of diſcourſe; This I ſpeak at my Table; This in my Chamber; taking them aſunder, he may anſwer them aſunder: But if he hath in his Chamber, and at Counſel, and in Bed, and on all occaſions preſumed to run ſo high on the Liberty of the Subject, and then think, that becauſe he ſpeaks ſometimes good words, all muſt be paiſtered up; he muſt give us leave to differ from him in that.

The Witneſſes ſay, he ſpake the words *Candidè & Caſtè*, ſome ſpeak to the occaſion, moſt ſay they were ſpoken at ſeveral times, both before and after the Parliament, and if they muſt be applyed only to what is lawful, what need theſe *Adverbs* to make it good? Truly he may ſay it was done *Cautè*, it was not done *Caſtè* in this Cauſe.

For that my Lord hath ſaid, divers Witneſſes were by, and heard not the Words depoſed by Mr. Treaſurer, What Argument is this? That when divers are by, that which divers do not remember is not true? My Lord confeſſes himſelf ſometimes, that Witneſſes do not remember all things, therefore it may be true, that ſomething may be ſpoken, which Witneſſes remember not, elſe he confeſſes againſt himſelf which is not true.

There be other things wherein the Witneſſes do concurr, and that my Lord ſpeaks not to, though he ſpeaks to that which my Lord of *Northumberland* and the reſt do not remember: and therefore it is no argument to ſay, ſome were by and heard not what was ſpoken.

The ſum of the Caſe will come to this, There was a Parliament ſitting, he a little before caſts out words, about raiſing Money, where he muſt have *Adverbs* to make it good; he muſt raiſe Money in an extraordinary way, the Parliament is broken, and a neceſſity is made, and Soldiers muſt be brought in, to make good theſe ways: now take theſe aſunder, and my Lord of *Strafford* will make it a good Action; But as Mr. *Maynard* ſhewed, they conceive all my Lord of *Strafford* hath done, ended in that deſign; he began it before he came over; and though they believe His Majeſty deſigned it for *Scotland*, they ſpeak not what His Majeſty meant, but what my Lord of *Strafford* counſelled, that is the thing he is charged with.

And whereas his Friends, and thoſe neareſt him, ſpoke of this Fire that hath burſt out, he ſays, this concerns him not; Indeed he is very unhappy, if his Brother, or boſom Friend muſt be the Man that muſt accuſe him. But *Noſcitur ex Comite qui non cognoſcitur ex ſe.* It comes out of his own mouth, and his Friends expreſſions. When Sir *George Ratcliffe* is Asked how money will be had? He Anſwered, We will make Peace with the *Scots*, and that is the worſt of Evils. Surely, he that thought a Peace betwixt the two Nations the worſt of Evils, deſerves not the applauſe that hath been given him in this place; And if that comes to paſs, this muſt have relation to that of which he ſpake, which is the levying of money by force, the King hath 30000 Men, and 400000 *l.* in his Purſe, and a Sword by his ſide, and if he wants money, who would pity him; Laſtly, My Lord of *Strafford* came to ſpeak of their Lordſhips priviledge, that if words

ſpoken

ſpoken in Council ſhould be preſſed, it would bring a diſability on their Noble Lordſhips, to enter into thoſe Imployments; but, that can be no excuſe, to ſay, that he muſt take notice of things honourable; and, for every thing that a Man ſpeaks at Council, he muſt not be brought into Queſtion. *Article* 23.

It is not every thing, nor every thing that is illegal, that is brought into Queſtion; But if he adviſe to bring an Army on us, to maſter all we have, and he muſt not be queſtioned, Where then are their *Lordſhips* Priviledges? and, Who knows how ſoon there may be no difference betwixt a Peer and another?

In all this Defence, my Lord of *Strafford* hath not offered any Defence for the Scandal which he put upon the laſt Parliament; which to the laſt breath, to the laſt minute of their Continuance, did adviſe and conſult of the Supply of His Majeſty: yet, he calls this, a denying of the King; a forſaking of the King; an undutiful ſtubbornneſs; and what elſe his high Speech and Eloquence pleaſes, to miſconſtrue their Actions with.

To that *Stat.* 1 *E.* 6. Mr. *Maynard* ſaid, He ſhall not need to give any further Anſwer; for, if it be looked to, it will appear nothing to concern this Caſe, there being great difference between words ſpoken with relation to action; For, theſe be Counſels, and if a Man ſhall Counſel the Death of the King, Will any Man doubt whether this be Treaſon? ſurely no Man will doubt it, that knows the Laws of *England*. Mr. *Maynard.*

The Treaſon is not in his Words, but in his wicked Counſels: For (under favour) if it be true that he ſpake them, they may be called wicked; and, that it is true, they have offered proof, and ſo he left it to their Lordſhips.

Mr. *Glyn* deſired to add a word, it concerning the Kingdom and Peers; Their Lordſhips obſerve, how my Lord of *Strafford* ſtands queſtioned for ſubverting of the Laws, and for deſigning to introduce an Arbitrary Government; the other Day his deſign appeared, in the exerciſing of a Tyrannical Power over the Perſons, Eſtates and Liberties of the King's Subjects; and, though a deſign was in practice, and ſomething put in execution, yet there was ſomething left, whereby that Treaſon might be raiſed to a higher ſtrain; For that Proofs were produced the other day, the exerciſe of this Tyrannical Power in his Perſon, which was the ſtopping of the Streams of Juſtice, but, the Fountain of Juſtice was ſtill uncorrupted, and hope left, and God be thanked we have hope ſtill. Mr. *Glyn.*

But, this Days work is to prove, That he aſended the Throne, and, by his ill Counſels, the Venom he had hatcht in his own heart, he endeavored to infuſe into the King's Perſon, to make Him of the ſame opinion with himſelf; and that is to endeavour to corrupt the Fountain; But, God be thanked he hath met with a Gracious King, upon whom he cannot prevail.

The words laid to his Charge, are very many; That he ſhould tell the King, he was abſolved from all Rules of Government, and, that he had an Army in *Ireland*, which he might employ to reduce this Kingdom:

Article 23. The latter part of the words he hath endeavoured to Anſwer, and the former part proved by poſitive Witneſſes, which he hath not given Anſwer to.

For the latter, that concerns the *Iriſh* Army, Mr. *Glyn* ſaid, He ſhall not need to put their Lordſhips in mind of any thing ſaid; but whereas my Lord ſays, They are proved by one Witneſs only, if your Lordſhips reviſe their Notes, they ſhall find them prov'd by many Witneſſes.

When he was not accuſed by the Commons, he tells Sir *William Pennyman* at *York*, he did intend to bring the Army into *England*, but there was *Vox populi*, and that's a horrid Witneſſes.

My Lord *Cottington*, one of the Honourable Perſons preſent, when the words were ſpoken, teſtifies to their Lordſhips, That he remembers my Lord of *Strafford* told the King, That after things were ſetled, he was bound to repair the property of the Subject, and this, under favour, proves ſomething; for if ſome Counſel and Advice were not given, that there ſhould be an Invaſion on the property, what ſhould engage him to tell the King, he ſhould reſtore it?

L. *Cottington.* Here my Lord *Cottington* explained himſelf, ſaying, That his meaning was, he hath often heard my Lord ſay, The King and People would never be happy, till there was a good Agreement.

Mr. *Glyn.* Mr. *Glyn* proceeded, that if their Lordſhips pleaſe to look on my Lord of *Strafford*'s Interrogatory, they ſhall find it asked his Lordſhip, Whether he did not tell the King, that he ſhould make reſtitution of the Subjects property, when the danger was over; and why ſhould his Conſcience ask ſuch a Queſtion, unleſs there were Counſel given, to invade the Propriety of the Subject?

Your Lordſhips remember the words of Sir *George Wentworth*, (which Mr. *Glyn* ſaid, he will not repeat) and when my Lord was fixed by the words of his Brother, he ſaid, That tho' he be my Brother, I do not uſe to communicate my Counſels to him, and that I am on my Oath to conceal; yet this great Counſel he did impart to Mr. *Slingsby* for his own purpoſe, and to Sir *William Pennyman*.

And ſo having ſpoken to the latter part of the words, (the reducing of the Subjects of *England* by the *Iriſh* Army) to ſhew that it ſtands not only on a ſingle proof, but if the whole be recollected together, there be many things concurring to the poſitive proof thereof.

Mr. *Glyn* put their Lordſhips in mind of the other words, to which two great Witneſſes concurr, and no Anſwer at all is given, *viz.* That the Parliament denyed Supply, and the King is looſe, and abſolved from all Rules of Government; put the other words out of doors (as they are not) if the King be looſe from all Rules of Government, is he not looſe to do what he will?

And Mr. *Glyn* added, That he muſt needs give Anſwer to ſomething, that fell from my Lord, concerning other words, that they were words of Diſcourſe, and what he ſpeaks at his Bed, or his Table, or in private Diſcourſe, he thinks they ſhould not be brought againſt him. But Mr. *Glyn* beſought their Lordſhips to remember, that if my Lord ſpeaks the words as a Privy Counſellor ſpeaking to the King, concerning the Subjects property,

perty, compare theſe words with the other Extermination, and then ſee what the Caſe is. *Article 23.*

The laſt thing in his Defence, is as high as the Charge it ſelf. He is charged, That being a Privy Counſellor, and entruſted by the King, and a Man of ſuch Eminence, he ſhould endeavour to infuſe into the King's Sacred Perſon, ſuch dangerous Counſels, tending to the deſtruction of the Law and Government, and conſequently of King and Subject; And in the cloſe, my Lord of *Strafford* put their Lordſhips in mind, what a dangerous thing it is for one of the King's Counſel, to be charged for Words ſpoken at Council-Table, to ſpeak this in ſuch a Preſence before the Peers, and Commons of the Realm; that a Privy Counſellor, who ought to be clear and candid, is not to be queſtioned, though he infuſe dangerous Counſels. That it is juſtification of his own Act, and ſo great that he knows not how my Lord could ſay greater; and ſo he ſaid, he hath no more to ſay, their Lordſhips had heard the Proofs and Defence, and comparing them together, he doubts not but their Lordſhips are ſatisfied, *that the Commons had juſt cauſe to do what they have done.*

My Lord of *Strafford* deſired to Anſwer one thing, the Gentleman that ſpake laſt, ſaid, touching his revealing the King's Counſels to Mr. *Slingsby* and others; he would be loath to be charged with breaking his Duty to God and the King, but where he hath Power and Liberty; for as concerning the employment of that Army, the King left it wholly to him, to acquaint whom he thought fit, for the bettering of the Service.

But the thing that makes him riſe, is, to repreſent to their Lordſhips, that he hath been there conſtantly in a great deal of weakneſs and infirmity, ſince 7 or 8 of the clock, and now it is 5. That his Speech and Voice are ſpent, and it is not poſſible for him to come here to morrow; and therefore he moſt humbly beſought their Lordſhips, to give him the reſpit of a Day, to reſtore his little ſtrength it ſhall pleaſe God to lend him, for he is not able to ſpeak or ſtand. Which the Committee for the Commons Houſe ſaid, they ſhould not oppoſe, if it ſtand with their Lordſhips pleaſure.

Mr. *Pym* did only add this, That if their Lordſhips pleaſe to obſerve my Lord of *Strafford*'s endeavours to prove divers mitigations of his words, ſome by Mr. Comptroller, and ſome others by my Lord *Goring*. But their Lordſhips may obſerve, that the words in the Charge were ſpoken at the Committee; the words ſpoken of by Mr. Comptroller, were at the Council-Table, and therefore they are not the ſame, nor ſerve they for extenuation of words ſpoken at another time. Mr. *Pym.*

And ſo the Houſe was Adjourned, and appointed to Meet again on Wedneſday next.

THE

THE

Five and Twentieth Article.

The Charge.

Article 25. *Charge.*

That not long after the Diſſolution of the ſaid laſt Parliament, (viz. in the months of May and June) he the ſaid Earl of Strafford, did adviſe the King to go on vigorouſly in levying the Ship-money, and did procure the Sheriffs of ſeveral Counties to be ſent for, for not levying the Ship-money, divers of which were threatned by him to be ſued in the Star-Chamber, and afterwards by his advice they were ſued in the Star-Chamber, for not levying the ſame, and divers of His Majeſties loving Subjects were ſent for and impriſoned by his advice, for that and other illegal payments.

And a great loan of a hundred thouſand pounds was demanded of the City of London, and the Lord Mayor, and Sheriffs, and Aldermen of the ſaid City were often ſent for, by his advice, to the Council-Table, to give an account of their proceedings in raiſing of Ship-money, and furthering of that loan, and were required to certifie the Names of ſuch Inhabitants of the ſaid City as were fit to lend, which they with much humility refuſing to do, he the ſaid Earl of Strafford did uſe theſe and the like Speeches, viz. That they deſerved to be put to Fine and Ranſom, and that no good would be done with them, till an example were made of them, and that they were laid by the heels, and ſome of the Aldermen hanged up.

April

Article 25.

April 7. 1641.

Mr. Maynard *proceeded to make good the Charge of the* Commons *of* England, *againſt the Earl of* Strafford, *touching High-Treaſon, and ſaid, They had already brought it ſo high, as they muſt needs acknowledge they cannot go higher; a Deſign being laid to introduce an Arbitrary Government, and Counſels given to maintain that, and to introduce it by force. They can go no higher; unleſs thoſe Counſels had unhappily ſucceeded; but though thoſe Counſels take not effect, yet the Principles whereby thoſe Counſels were given, appear ſtill to have remained.*

Mr. Maynard.

AND Whereas my Lord of *Strafford* having theſe things proved againſt him by his Speeches, Opinions, and Counſels, pretends there was no ſuch thing done, as if the goodneſs of others, would excuſe the badneſs of his Counſels; they ſhall ſhew what he did do in the ſucceeding *Articles*: And in the 25*th* he proceeds, Firſt, to adviſe His Majeſty to go on vigorouſly with the Ship-money, he procured the Sheriffs to be ſent for, and ſued in the *Star-Chamber*; he ſent for the Mayor and Aldermen, about the Loan of 100000 *l.* and the furtherance of Ship-money; and were told by him, That they deſerved to be put to Fine and Ranſome, *&c.*

To prove the 25th. Article,

The Lord Treaſurer of *England* being Interrogated, What Advice my Lord of *Strafford* gave, touching the levying of Ship-money?

L. Treaſurer.

His Lordſhip Anſwered, That he remembers my Lord of *Strafford* did Adviſe, that they ſhould go vigorouſly and effectually on with the getting of Ship-money; he takes the time to be, when as the Ship-money came in very ſlowly, and they were enforced to take out of theſe Moneys that were provided, for the furniſhing of the Army, divers great Sums to ſet out a Fleet, which elſe would have ſtayed ſtill; and my Lord of *Strafford* took notice, That if it were not repaid, the Army would be deſtitute and unfurniſhed, and therefore adviſed as formerly, That the Ship-money might go on vigorouſly, and the other Money be repaid again, for the uſe for which it was appointed, and it was after the breach of the laſt Parliament.

Tho. Wiſeman Sworn and Interrogated, What he heard my Lord of *Strafford* ſay, when the Aldermen of *London* were called to the Council-Table about the Ship-money, and the Loan, and when it was?

Tho. Wiſeman a Witneſs.

He

Article 25.

Tho. Wiſeman a Witneſs.

He Anſwered, That for the time he cannot very well remember, and touching the *Loan*, he is able to ſay little; but about the Ship-money, he doth very well remember, that my *Lord* ſhould ſay, they would never do their Duties well, till they were put to Fine and Ranſome, meaning the Aldermen, that were then called before their *Lord*ſhips, and this is as much as he can ſay.

Being Asked, Whether there were not words *of laying by the heels*, and what the words were?

He Anſwered, He ſhould not fear to do it, My Lord of *Strafford* did ſay (whether on the Loan or Ship-money, he is not able to remember) You would do well to be layed by the heels; you ſhall have no good of this Man till he be laid by the heels, and he (the Examinant) ſuppoſes it was meant of my Lord Mayor, who was then preſent, (as he remembers) and my Lord was there, and to his beſt remembrance, His Majeſty was preſent.

Earl of *Barkſhire* being Sworn and Interrogated, What my Lord of *Strafford* counſelled the King, touching the ſaid matter of *Loan*?

E. of *Berkſhire*.

His *Lord*ſhip Anſwered, That he remembers His Majeſty deſired to borrow a Sum of Money, and to give good ſecurity for it. and Intereſt after 8 *per Cent.* on the Sum. That the Aldermen were ſent for, and commanded to give in to the King, the Names of thoſe Men, that were moſt able within their ſeveral Wards, which they excuſing themſelves from doing; my *Lord* of *Strafford* ſaid: Gentlemen, in my opinion, you may be lyable to Fine and Ranſome, for refuſing the King's Command on this occaſion, for not certifying the Names; and this is the effect of what he ſpake.

Sir *Henry Garaway* being Sworn, and Interrogated, What my *Lord* of *Strafford* ſaid to the Aldermen, about the Ship-money and *Loan*-money?

Garaway Lord Mayor of *London*.

He Anſwered, That as he was Mayor of *London* in the laſt year, he was oftentimes commanded to attend the Council-Table, with the Sheriffs of *London*; when they came about the Ship-money, there came no body (as he conceives) but they and himſelf; but when they came concerning the *Loan*, the whole Court of Aldermen came together, Concerning the Ship-money, he confeſſes he found a great difficulty of it; he could not tell which way to turn himſelf to levy the money, to give the King ſatisfaction; He acquainted His Majeſty, That there were theſe difficulties in it, That of two years proceeding, not one half of the City of *London* had paid, and therefore the *willing men that had paid the money*, thought it unequal ſome ſhould pay, and ſome go free. And Secondly, he ſaid, it was the opinion of the City of *London*, That a Writ for Ship-money, and a Writ for a Parliament did not agree well together, and for theſe Reaſons he found it very difficult: they were called up, and haſtened both in the Aſſeſsment of Collection, and in reſpect they found every Man

man adverſe to it; the buſineſs had not that progreſs, nor ſpeedy execution it might otherwiſe have had, and as it had in former times. And when he had told his Majeſty this, it was ill taken, that he ſhould deal ſo plainly, becauſe he did diſcover himſelf clearly and freely; what was the fruit of the buſineſs. And it pleaſed my Lord of *Strafford*, then in the preſence of the King, to ſpeak, *Sir, you will never do good on this man, till you have made him an example, he is too Diffident* (or to this purpoſe) *unleſs you commit him, you ſhall do no good upon him*; This concerning the Ship-money. Concerning the Loan-money, when they came with the Aldermen together, he (the Examinant) deſired he might be call'd in ſingly, becauſe he was very loath (knowing the humour of the Court of Aldermen, how they ſtood affected) that they ſhould give the King a negative Anſwer at the Board, and it pleaſed his Majeſty to call him (the Examinant) in ſingly, and he told his Majeſty in his hearing at that time, That there was no good to be done, for amongſt all the Aldermen, he could not yet conſent to raiſe above 6 or 7000 pound at the moſt. And then they were to bring in out of every of the ſeveral Wards, the Names of all the able men of the City of *London*, that could lend money; wherein it was required they ſhould ſet it down, what every man was fit to lend. This they altogether declined, for we thought it not fit we ſhould rate mens Purſes, and he (the Examinant himſelf) preſented the Size-Cinque, the Quater-tres men, and the Deux-ace men, according to their qualities, but ſet a rate on men we did not, and deſired his Majeſty we might be ſpared. Hereupon my Lord *Strafford* at that time, burſt out into theſe words, Sir, *You will never do good to theſe Citizens of* London, *till you have made examples of ſome of the Aldermen*; This to his beſt remembrance he ſaid, *Unleſs you hang up ſome of them, you will do no good upon them.* This is the ſubſtance of what he heard. *Article* 25.

Being asked, Whether this was immediately after the breach of the Parliament?

He anſwered, That he cannot confine himſelf in time; he deſired to be ſpared in that, but he was ſeveral times at the Council-Table; but it was after the breaking of the Parliament.

My Lord of *Strafford* obſerving, that Alderman *Garaway* ſpake it only to his beſt remembrance, he was Interrogated, Whether he could ſpeak it poſitively? E. of *Strafford.*

He anſwered, That it is a great while ago, and he did hear the words, that's certain. *Garaway.*

Being asked by my Lord of *Strafford*, whether he himſelf ſpake them?

He anſwered, Yes, my Lord, your Lordſhip did ſpeak them.

My Lord deſiring leave to recollect himſelf a little, ſaid, he will ſpeak with as much truth, albeit, not with ſo much confidence as this Gentleman.

Article 25.

And after a little reſpite, he began his Defence as followeth.

Defence of the E. of *Strafford.*

The Defendant muſt ſtill inſiſt on this ground, which hitherto he hath gone upon, under their Lordſhips good leave;

That there is nothing in this *Article*, that can poſſibly convince him of High-Treaſon, admit it all proved, as it is laid down in the Charge; he hath very little to Anſwer, for there is little proved, the greateſt part is offered on a ſingle Teſtimony, which as he hath heretofore mentioned, he humbly conceives, by the Laws of the Land, cannot be charged upon him in Caſe of Treaſon; for nothing can be charged upon him in caſe of Treaſon, without two lawful Witneſſes.

For advice my Lord Treaſurer ſays he gave in caſe of levying Ship-money, ſurely he adviſed no other ways than as had been formerly uſed three or four years before his coming into the Kingdom; ſo that if it be an error, he was led into it by the practice of former times, and of wiſer men than himſelf.

Beſides, there was then, as he conceives, a Judgment given in the *Exchequer-Chamber*, and he hath learnt always in his own practice, by reaſon of his own weakneſs of judgment, never to be wiſer than his Teachers, or to pretend to know more in other mens Profeſſions, than they know themſelves.

And therefore there being a Judgment given in point of Law by the Judges, it was not for him to diſpute what they had done, but with all humility, to ſubmit it to better Judgments than his own, ſo that to adviſe ſuch a thing (as it then ſtood) he hopes will be excuſable and pardonable in him, albeit he doth not juſtifie himſelf in it, in reſpect of ſomething he hath heard and learnt, ſince that time, and taught him likewiſe by wiſer men than himſelf. And as he then followed that which was delivered by the Judges, ſo he ſhall for the future, follow what he hath learnt by others, that ought to be believed, and by him credited before himſelf: But in the mean time he conceives it a pardonable fault, and ſhall never be drawn up, or put into the Scale againſt him as Treaſon.

To the other words, teſtified to be ſpoken by him at the Council-Table, He Anſwers, That he might hold the Aldermen liable or ſubject to Fine and Ranſom, in caſe they did not ſubmit to the Kings Demands (for ſo on the matter, my Lord of *Berkſhire* repeats the words) truly ſuch hath been, and ſhall be his ingenuity in all things concerning this buſineſs, that theſe words he hath already acknowledged and confeſt to be by him ſpoken; and he confeſſed now he did ſay, That in his opinion, in a Caſe of that great neceſſity, and imminent danger, which he conceived the Kingdom to be in, their refuſal might perchance, make them liable to Fine and Ranſom; but the words, as he remembers them, were appliable not to that particular, but to another.

For he ſays, and he ſays truly, the words were ſpoken to haſten and ſpeed my Lord Mayor in the Services that were commanded him; not out of any intention or purpoſe, to do him hurt by further moving, or proſecutiug any thing againſt him. He confeſſes, he wiſhes he had not ſpoken them, but being ſpoken, and ſpoken to that end and purpoſe, as high a thing as this might have been paſſed over, and not charged on him as a Crime, but rather as an extravagant ſaying, which God forbid a man ſhould be Arraigned for in this kind, as he is, and a little exceſs of Speech, he truſts by their Lordſhips Favour and Goodneſs, may be excuſed, if not pardoned,

pardoned, at leaſt ſo much pardoned, as it ſhall not be laid to him as Treaſon, when it is but a haſty word, and nothing follows upon it. *Article* 25.

For the other words which my Lord Mayor ſays, That he the Earl of *Strafford* ſhould ſay to his Majeſty; *Sir, there will be no good done with the Citizens of* London, *till you have hanged ſome of them up*; which at the firſt he ſaid, was to his beſt remembrauce, and upon recollection, he ſays directly and abſolutely; for my Lord ſaid, he muſt not make it weaker againſt himſelf than it is; and he wiſhes that Rule might be kept on both ſides, which is to repeat the Evidence to their Lordſhips clearly and plainly as it is; which duty he ſaid, he had religiouſly obſerved, ſince the beginning of the Cauſe, and will perform to the laſt, not miſreciting any thing for his advantage or diſadvantage; This being howſoever his comfort and joy, that their Lordſhips are ſo wiſe, as not to hearken to what is repeated of the Evidence, but to the Evidence it ſelf, as it is plainly and clearly repreſented, and that will not deceive them: and therefore my Lord ſaid, to the beſt of his remembrance (and the Witneſſes ſaid, no more at the firſt) he ſpake them not; but he thinks they were ſpoken in ſo good Company, before their Lordſhips of the Council-Board, that it cannot but be remembred, by ſome of their Lordſhips, if the words had been ſpoken, and by his Majeſty, to whom it is ſaid they were directed.

But being an equal Teſtimony (however in this condition, and misfortune, and affliction, it may be between this Gentleman and himſelf) he thinks that before theſe troubles befell him, he was as equally to be believed as the other; and therefore all the difference is, one ſays it, the other denies it.

My Lord added, That he denied it in his Anſwer, and he denies it at the Bar, and in truth, to his beſt remembrance, he never ſpake the words; and it is a thing of no great moment, being a haſty word, and at the moſt very excuſable, eſpecially to a free ſpoken man, as he is, and he ſmarts for it, which hath further engaged him, perhaps than wiſer men would have been, that hath much worſe thoughts than ever he had, but he hoped it will be pardoned, and not amount to make good the Charge againſt him, but that their Lordſhips Honour and Juſtice will excuſe it, rather than puniſh it, and ſo his Lordſhip ſaid, he would ſay no more to it.

Mr. *Maynard* made Reply thereunto, in ſubſtance as followeth.

The Committee ſhall need to ſay little to this Anſwer of my Lord of *Strafford*, for whereas he ſays nothing of High Treaſon is proved, their Lordſhips will be pleaſed to remember, how oft this hath been anſwered; for if their Lordſhips will look back, to what they have proved from the beginning: They charge not this as a particular Treaſon, but having charged him with a deſign to ſubvert the Fundamental Laws; it appears he threatned it, *That the King's little finger ſhould be heavier than the loins of the Law*; They have ſhewed what he did in *Ireland*, how he did not only threaten, but gave Sentence of Death on one for words, how there he hanged another; it appears what a Juriſdiction he erected againſt Law, and ways were taken to maintain them; how Soldiers were forced on mens Houſes againſt their Wills; and what Inſolency they committed, and that muſt not be queſtioned when it is propounded; When he comes into *England*, their Lordſhips hear what Counſels he gives, which compared with the Plots he laid, there is reaſon to think, that theſe words proceeding

Article 25. ceeding from my Lord of *Strafford*, that men ſhould be Fined and Ranſomed, Hanged up, and laid by the Heels, comes not out of ſuddain paſſion, but riſe from thoſe Principles and Reſolutions that were in him, to do all things according to his Will and Pleaſure, againſt Law.

They beſeech their Lordſhips, theſe may not paſs as haſty words, when they appear to be ſuitable and conformable to Actions and Counſels preceding for many years, and not yet laid down by him, for ought can be diſcerned.

The ſingleneſs of the Teſtimony hath been often objected, and as often anſwered, but this is no ſingle Teſtimony; My Lord Treaſurer ſpeaks of his Advice to go on vigorouſly with Ship-money; Others prove Fine and Ranſom, and Hanging up, Threatned, which have all concurred to the general Charge, being ſeveral Circumſtances proved by ſeveral Witneſſes.

But whereas my Lord thinks to excuſe himſelf, becauſe there was a Judgment in the *Exchequer-Chamber*; God be thanked, it appears to be a Judgment againſt Law; and my Lord of *Strafford* ſpake theſe words after the King offered to lay down the Ship-money, for it was after the Parliament; But there was never any Judgment, that a man might be hanged in ſuch a caſe, nor be Fined and Ranſomed for not certifying in matter of Loan; my Lord of *Strafford* knows as well as any man, that it is againſt Law, himſelf having had a great hand in the *Petition of Right*.

Mr. *Glyn*. Mr. *Glyn* deſired he might obſerve one thing, that fell from my Lord of *Strafford*, not at this time only, but at ſeveral times; That it is hard he ſhould for words be queſtioned as High Treaſon, being a word ſpoken, and no ill effect of it; their Lordſhips may be pleaſed to call to mind, that for words ſpoken concerning *Treading on his Toe*, he proſecuted ſo far as to life, and yet they were ſpoken as accidentally as theſe, and not of leſs conſequence, and nothing came of them; and yet he procured a Sentence of Death againſt the Speaker, but here he extenuates it; and muſt not be charged with words.

And ſo the 25*th* Article *was concluded.*

THE

THE Six and Twentieth Article.

The Charge.

Article 26. *Charge.*

THat the ſaid Earl by his wicked Counſels, having brought His Majeſty into exceſſive charge, without any juſt cauſe, he did in the month of July laſt (for the ſupport of the ſaid great Charges) counſel and approve two dangerous and wicked Projects, viz.

To ſeize upon the Bullion, and the Money in the Mint.

And to imbaſe His Majeſties Coin with the mixtures of Brals.

And accordingly he procured one hundred and thirty thouſand Pounds which was then in the Mint, and belonging to divers Merchants, Strangers, and others, to be ſeized on and ſtayed, to His Majeſties uſe. And when divers Merchants of London, Owners of the ſaid Bullion and Money, came to his houſe to let him underſtand the great miſchief, that courſe would produce here, and in other parts, and what prejudice it would be to the Kingdom, by diſcrediting the Mint, and hindring the importation of Bullion; he the ſaid Earl told them, that the City of London dealt undutifully and unthankfully with His Majeſty, and that they were more ready to help the Rebels than to help His Majeſty. And that if any hurt came to them, they may thank themſelves: and that it was the courſe of other Princes to make uſe of ſuch monies to ſerve their Occaſions.

And when in the ſame month of July, the Officers of His Majeſties Mint came to him, and gave him divers reaſons againſt the imbaſing the ſaid Money, he told them, That the French King did uſe to ſend Commiſſaries of Horſe with Commiſſion to ſearch into mens Eſtates, and to peruſe their Accounts, that ſo they may know what to levy of them by force, which they did accordingly levy; and turning to the Lord Cottington, then preſent, ſaid, That this was a point worthy of his Lordſhips conſideration, meaning this courſe of the French King to raiſe monies by force, was a point worthy of his Lordſhips conſideration.

Mr.

Article 26.

MR. *Maynard* proceeded to open the 26th *Article*, and obſerved, That they had ſhewed formerly, how my Lord of *Strafford* had laboured a Diſſatisfaction betwixt his Majeſty and his People: Now they come to ſhew, That his Majeſty being put to extream Charges, by the Advice of my Lord of *Strafford*; my Lord adds his Advice, for ſeizing money in the Mint, and for that of the baſe Coin, or black money; And, that when ſome attended my Lord of *Strafford* about it, to ſhew to him the danger and ill conſequence, that might ariſe from it, my Lord of *Strafford* tells them, The City had dealt undutifully and unthankfully with his Majeſty, and were more ready to help the Rebels than his Majeſty; and, they may thank themſelves; and it was the Courſe of other Princes, to make uſe of ſuch moneys. And, when the Maſter of the Mints gave Reaſons againſt it, my Lord ſaid, The French King uſed to ſend Commiſſaries to mens Shops, and to look into the Accompts and Books of men, to ſee and peruſe their Eſtates, that they might raiſe and levy it by force: And, turning to a Noble Lord by him, he ſaid, That was a point worthy of his Lordſhips conſideration.

To prove the words ſpoken, about ſeizing the Money in the Mint,

Robert Edwards witneſs.

Robert Edwards was Sworn and Examined, What he heard my Lord of *Strafford* ſay, when he attended him, about the money ſeized in the Mint?

He anſwered, That he went to his Lordſhip about the danger, that the Company of Merchant-Adventurers were in, in regard their Eſtates were beyond Sea, giving his Lordſhip to underſtand the danger, in regard ſo much money was taken out of the Tower, being, as he remembers, on *Saturday* night. They went on *Monday* morning, and deſired my Lord to ſpeak to his Majeſty, that the money might be reſtored again, that their means might not be ſeized; for, ſome ſtrangers had threatned, they would ſignifie to their Principal, how their money was taken from them, and would ſeek for a recompence again, by the means they had beyond Sea: And, my Lord made anſwer again to him, and divers others that were there, That if they fared amiſs, they might thank themſelves, for if they went on in that manner, they were like to find it themſelves; and that they ſhould have the damage of it, if they did look to it no better. And withal he ſaid, That though they think it is a ſtrange buſineſs here, yet beyond Sea it is not ſo, but on Command men have their Goods taken. This was the ſubſtance, as he remembers, of what he ſaid to them.

Being asked, What my Lord of *Strafford* ſaid, touching the City of *London*?

He anſwered, That he ſaid, They did deal very unthankfully and undutifully,

undutifully, for there was but 14000 *l.* for Ship-money that was his Majeſties due, and they denied the payment of that; and did more to maintain the Rebels, than they did to maintain his Majeſty. *Article* 26.

Being bid repeat his words:

He ſaid, That they came at firſt to be humble Suitors to his Lordſhip, to be a means to his Majeſty, that the money taken from the Tower, might be reſtored again; for, the Merchants Adventurers Eſtates beyond Sea, were in great danger, in regard there were ſome ſtrangers threatned, to write to their Principals, to ſtay their Eſtates there, for the money ſtayed in the *Tower*: Whereupon my Lord made anſwer, That if they did ſpeed amiſs, they might thank themſelves, for they are more ready to hold with Rebels, than they were to give his Majeſty his due, which was 14000 *l.* for Ship-money.

Being asked (on my Lord of *Strafford's* motion) Where he ſpake them? and, Whether he was not then Sick?

He anſwered, It was in his Chamber: and my Lord did ſit in his Chair, and he (the Examinant) ſtood hard by him, with four or five more, and he conceives my Lord was ſick at that time.

Being asked, on like motion, Whether he did not tell them he was ſick, and could not go to the King at that time?

He anſwered, That he remembers not that my Lord ſaid, he could not go to the King; but, he ſaid, he knew nothing of it till that morning, to his (the Examinants) remembrance.

Anthony Palmer Sworn, and Interrogated, What my Lord of *Strafford* ſaid to him, concerning the mixt Money? *Palmer* witneſs.

He anſwered, That my Lord of *Strafford* had ſome Diſcourſe with him, and the reſt of his fellow Officers, concerning baſe Money; and, upon the queſtioning of it, they gave him their Reaſons againſt it, and the inſufficiency of it to do any thing, and ſaid ſo much, as they conceived my Lord was diſſwaded from going any further in it: Upon this, he afterwards ſhewed them a Letter, drawn out of his Pocket, which, as he ſaid, was ſent him out of *France*, and in the French Tongue; and, becauſe he (the Examinant) did not underſtand the French Tongue, he read it in Engliſh to this effect, ſo far as the beſt of his memory will hold; That the King of *France*, or the French King, had appointed certain Officers of his, to go and take view of mens Books of Accompt and Eſtates, by that means to ſee what they were worth, and to know what the King might demand of them; and, if they were not willing to pay it, there would be a force upon them to pay it. This, to the beſt of his remembrance, is that my Lord did deliver.

Being

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Being asked, Whether my Lord of *Strafford* did not ſpeak words to this effect, That if his Majeſty ſhould do ſo, he ſhould have the Examples of others, or to that purpoſe?

He anſwered, Something he ſet forth to this effect, but the very words he cannot expreſs, but it was to that purpoſe; That he had received Letters, that the King of *France* had ſent Officers, that took view of mens Books and Accompts, to raiſe to himſelf ſome moneys (if they were not willing) by conſtraint, and withal ſome other Speeches did fall from him to this purpoſe, but, the very words he cannot ſpeak, that it was an Example, or might be an Example, to do the like in *England*.

Being asked (on my Lord of *Strafford's* motion) Where this was ſpoken?

He anſwered, It was in my Lord's own Houſe in *Leiſter-fields*, he thinks, and there were preſent three more, Sir *William Parkhurſt*, Mr. *Gogan*, and himſelf, and my Lord *Cottington* was alſo there.

Henry Gogan Sworn and Interrogated, What he heard my Lord of *Strafford* ſay, when he attended him, about the abaſing of the Coin?

He anſwered, That after the coyning of the baſe money was thought on, there were Queries made, and they were to give an Anſwer the next day about the making of it; That was, about the Expedition, and what it would coſt, and two other Particulars, the Paper Sir *William Parkhurſt* hath. But, ſome of them ſpoke againſt the making of the money, Mr. *Palmer* and the reſt ſhewed the inconvenience of it; and then my Lord pull'd out a Letter in *French*, and read it in *Engliſh*, to this purpoſe; That the King of *France* raiſed money by force, ſending Commiſſaries of Horſe to look into their Books and Eſtates, and levy money accordingly; and, did turn about to my Lord *Cottington*, and ſaid, My Lord, this is worthy your conſideration or hearing, or words to that purpoſe.

Being asked (on my Lord of *Strafford's* motion) Where it was ſpoken?

He anſwered, It was ſpoken at my Lord's Houſe in the Fields, in the preſence of Sir *William Parkhurſt*, Lord *Cottington*, Mr. *Palmer*, and himſelf.

Sir *William Parkhurſt* being Sworn, and Interrogated, What my Lord of *Strafford* ſaid, when he and the reſt attended him about the Copper money?

He anſwered, That they were ſet for; and, the firſt Queſtion they were asked, was, What ſorts of money were made in Queen *Elizabeths* time of Copper, for the Kingdom of *Ireland*? they told

told him what they were, and that they could produce the Indentures and Circumſtances of making thoſe moneys; and they had divers Diſcourſes of the matter of money, and it was reſolved into certain Queries that they ſhould conſider of, which he the Examinant was never formerly examined of, and the Papers are not here, neither was he warned hither to day. And, in the diſcourſe of theſe moneys, my Lord of *Strafford* did produce a Letter written in *French*, as news lately received from thence, and, doubting whether they underſtood French or no, he Engliſhed it, in theſe kind of words, or thus much in ſubſtance, That the French King had lately ſent certain Commiſſaries, or Commiſſioners, into divers parts of *France*, there to take and peruſe the Accompts of Merchants, and the Books of Mens Eſtates, whereby they might know what Eſtates they had, and this is the ſubſtance of what he can ſay, and further he heard him not ſay. *Article* 26.

Being asked (on my Lord of *Strafford*'s motion) Who was there preſent?

He anſwered, My Lord of *Strafford*, my Lord *Cottington*, Mr. *Palmer*, Mr. *Gogan*, and himſelf.

Being asked, on the like motion, Whether he heard my Lord of *Strafford* offer to my Lord *Cottington*, That this was worthy his conſideration or notice?

He anſwered, That he did not hear it.

Being asked, Whether he ſaid, That if the King ſhould do ſo, he ſhould follow the Example of other Princes?

He anſwered, No.

Sir *Ralph Freeman* being asked, What words my Lord of *Strafford* ſpake concerning Copper money, If it were refuſed to be taken?

He anſwered, That he was not there at the firſt meeting, but at the private Council, his Majeſty being preſent, there was a Debate about paying Copper money, and he (the Examinant) anſwering, That they would not work, if they were paid in Copper money: My Lord of *Strafford* replied, You know what courſe to take with them, you may ſend them to the Houſe of Correction; This is all he heard.

Mr. *Maynard* deſired *Tho. Skinner*'s Examination might be read, as to the matter which Mr. *Stewart* was examined to, he being ſeen at *Weſtminſter* that morning, and acknowledged, that he was to be examined here as a Witneſs, and it ſeems could not get in, or is otherwiſe kept away. *Mr. Maynard.*

My Lord of *Strafford* deſired, they might reſerve the advantage of him, and he would give way to it.

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Mr. *Maynard*.

Mr. *Maynard* anſwered, That when he ſays a Witneſs may be kept away, it is not that he is kept away, for he is here; but, if a Witneſs hath been examined, and doth not come, his Examinations may be read, for it is poſſible a Witneſs may be kept away, though he be not ſick.

Mr. *Henley* witneſs.

George Henley being Sworn, and Interrogated, Whether he ſaw *Skinner* this morning at *Weſtminſter*?

He anſwered, He ſaw him in the Palace-yard, and he told him the Examinant, that he (the ſaid *Skinner*) was to be here as a Witneſs.

My Lord of *Strafford* deſiring that liberty for him to Croſs-examine him might be reſerved, and that being granted, the Examinations were read.

The Examination of *Tho. Skinner* Gent. taken the 8*th Jan.* 1641.

To the 98th Interrogary he ſaith, That he attended Mr. *Edwards* and other Merchants-Adventurers to the Lord-Lieutenant, a little after the ſtay of the Money and Bullion in the Mint, and the ſaid Merchants repreſented divers inconveniences to his Lordſhip which might ariſe from the ſtay thereof; and alledged, That it would occaſion a ſeizure of the Engliſh Merchants beyond the Seas. Whereupon his Lordſhip ſaid, He did not know of the ſeizure until that morning; But, if any Inconvenience happen, they may thank themſelves: and his Lordſhip further ſaid, that though this act might ſeem ſtrange in *England*, it was no news in other Countries; Where Princes made uſe of ſuch means to ſerve their occaſions; and his Lordſhip did very much tax and blame the City of *London*, ſaying, They dealt unworthily with his Majeſty, in refuſing to pay the 14000 *l.* of Ship-money, which was his due; and that they were more ready to hold with Rebels than with his Majeſty; and, that they dealt unthankfully with his Majeſty, in not relieving him in his great Neceſſities.

And ſo Mr. *Maynard* concluded this Article, the words charged being proved, and my Lord of *Strafford*'s Anſwer was expected.

After a ſmall time given him to recollect his Notes, my Lord of *Strafford* made his Defence, in Subſtance as followeth,

E. of *Strafford*'s Defence.

That he is to give his Defence to the 26th Article, the firſt part whereof was, That he ſhould Counſel and Approve two dangerous and wicked Projects.

Firſt, To ſeize on the Bullion and Money in the Mint.

Secondly, To debaſe the Coin with mixture of Braſs.

That

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That he hath in his Anſwer, denied either the Counſelling or the Approving of theſe Projects, as they call them; and, for that part, which indeed would be the principal thing in the Charge, if it were proved, there is no offer of any proof at all, that is, concerning the Approving, Counſelling, or Deviſing thoſe Projects.

To this he Anſwereth, It will appear in their own proof, he (the Defendant did not counſel the ſeizing of the money, for Mr. *Edward*'s acknowledges, when they came to acquaint him with the buſineſs, he profeſſed he knew nothing of it; Nor did he, being then ſick, and unfit for this matter.

And, Mr. *Skinner* ſays, He (my Lord of *Strafford*) told them, That he knew nothing of the ſeizure of that money; So that there is no Proof againſt him: and, the Proof brought, Acquits him, as to that.

For the debaſing of the Coin, Mr. *Palmer* ſays, That he and the reſt of the Officers giving Reaſons againſt it, he (my Lord of *Strafford*) gave it over; He remembers very well, there was ſome ſpeech about the Copper Coin; and, that Information was to be given, what Queen *Elizabeth* had done in the like Caſe: And, he remembers too, that it was given over: Alſo, that he was one of the Committee, to take Information of the Reaſons for it, and againſt it; and, to report: and, further then that, he medled not with it.

For the reſt of the Charge, in telling the City, They dealt undutifully with his Majeſty, *&c.* he conceives the Proofs are full in that Point, and fuller then any thing of the Charge ſince the Trial began.

And, it is true, he did not at that time think the City had dealt thankfully with his Majeſty, they having received ſo many Favours from him, and He reſiding amongſt them, ſhould refuſe the Loan of 100000 *l.* on good Security given; and, it might very well be (as he thinks he did) at that time, he might ſay ſo; And, if he ſpake it out of overmuch ſenſe towards his Majeſty, and his Service, ſurely he doth not conceive it to be any great Crime, to ſay, They dealt undutifully with the King: But, whatſoever it was, he is ſure he is ready to amend it, and to be of another Opinion: For, he remembers very well, and, he thinks many of their Lordſhips will call it to mind, that when upon the return of divers Noble Perſons to *York*, he underſtood that the City of *London* had lent the King 200000 *l.* he then ſaid, That he was glad for his part, extreamly glad of it; and, all that was paſt formerly, was now fully ſatisfied, as to him, and he ſhould be ready to ſerve them with his Life for it, as long as he lived; And this he ſpake in the Great Council of the Peers at *York*, and that he would be as ready to ſerve the City of *London*, as any poor Gentleman in the Kingdom, and ſo he ſays again, he will: and if at that time, or other time, he was ſo ſenſible of the Service of his Maſter, as not to think it well done of them, to refuſe ſo ſmall a Curteſie, and expreſt ſomething that might have been ſpared: Men oftentimes offend with the Tongue, when they offend not with the Heart; And, he hopes this can be no ſuch bloody Crime, it arguing him rather to be innocent from doing any

Article 26. great evil, when words are ſo often charged on him, rather than doing.

But, there are ſome things not proved, that perhaps will be mentioned, becauſe they be ſingly ſpoken of, but not doubly proved.

The next Charge is a Letter, that he ſhould ſhew, about the King of *France* appointing Officers to take Accompts, and to view mens Books, and that it might be an Example for us here. Which words he doth abſolutely deny. He never ſpake them. He never thought them: And Mr. *Palmer* only ſpeaks it; But ſays, the very words he cannot expreſs: and, if he cannot (the Defendant) appeals to their *L*ordſhips, whether he ſhould be Condemned for words which cannot be expreſt? and he hopes it will be of very little force with their Lordſhips, when it is ſo uncertainly delivered. But, however, it is a ſingle Teſtimony, none of the other Witneſſes teſtifying the words, as he conceives.

Sir *William Parkhurſt* denies expreſly, that he heard them.

Mr. *Gogan* is a ſingle Teſtimony, in ſaying, what my Lord of *Strafford* ſhould ſay to my Lord *Cottington*, That they might be worthy of his Lordſhips conſideration; And Sir *William Parkhurſt* denies that he heard them.

But, it will be neceſſary for him, to let their Lordſhips know clearly and plainly, what this great matter was concerning the French Letter, for he truſts my Lord *Cottington* would remember it, and my Lord Treaſurer too, if need were; but this is no way in his Charge, and therefore he ſhall not inſiſt in the proof of it.

His Lordſhip having the honour to be of the Foreign Committee, my Lord of *Leiceſter* was pleaſed to ſend weekly Letters, to divers of their Lordſhips, and, among the reſt, he received one, being in the nature of a *Gazette*: In which Letter, nothing was mentioned of Commiſſaries of Horſe; but, it was mentioned, that the Cardinal had given direction to certain Commiſſaries, to go into the Houſes of divers Merchants, not over the Kingdom, but at *Paris*, and inform themſelves by their Books of Accompt, what Eſtates they had, that they might demand Supply.

This Letter, he ſays, he read, with this Clauſe, You may ſee what is done in other places; but, God be thanked you have ſo pious and gracious a King, that he thinks on none of theſe things; he read it to them as a *Gazette*, a fooliſh idle Letter, and no more, *&c.*

My Lord *Cottington* being Interrogated touching the Letter, *&c.*

L. *Cottington* witneſs.

He profeſſes that he knew nothing of ſuch a Letter, but becauſe he would remember it, he ſpake with Sir *William Parkhurſt*, and Mr. *Palmer*, and ſome others, and they told him, that when my Lord was reading the Letter, he was Writing in another Room; and asking, Why it was ſaid he was preſent? they told him then, That they thought *Gogan* had ſaid ſo, when there was no ſuch matter; For, he having ſeen his name in the printed Book,

Book, he hath been careful to inform himſelf, what kind of Letter it was, for he profeſt to their Lordſhips, he remembred not the Letter, nor the Diſcourſe, and asking Sir *William Parkhurſt* and the reſt, why it was ſaid, ſuch words were ſpoken to him by my Lord of *Strafford?* they ſay, they had been examined upon it, and had denied it. *Article* 26.

For Sir *Ralph Freeman*'s Depoſition, that my Lord of *Strafford* ſhould ſay, That if the poor men that work on the money ſhould refuſe to work, they might be ſent to the Houſe of Correction; That he conceives he might ſay without offence, but it is no part of his Charge.

My Lord *Cottington* being asked (on Mr. *Glyn*'s motion) Whether he had heard of ſuch a Letter?

He profeſſed, to his remembrance he never heard of the Letter.

Whence Mr. *Maynard* inferred, there be others that ſpeak to that, therefore there may be ſomething that is not remembred. Mr. *Maynard.*

And ſo my Lord of *Strafford* concluded, that he had told their Lordſhips clearly and plainly what is proved, what the things were, and as they were; and he truſts nothing is in his Actions, but ſuch as may admit of a noble and favourable conſtruction: and ſo there is no more for him to Anſwer to this *Article*, but only to ſay, That under the favour of theſe Gentlemen, nothing can incline one way or other, to be an Accuſation of High-Treaſon.

To which Mr. Maynard *made a Reply in ſubſtance as followeth.*

That he ſhould not hold their Lordſhips long in Reply to this; My Lord denies the Counſelling and Approving the matter of ſeizing the Mint, and debaſing the Coin, and a Witneſs produced, ſays, My Lord knew nothing of it; that they can preſs no farther, but that is no juſtification to my Lord *Strafford*, to retort ſuch words concerning the Great City of this Kingdom, on ſo ſmall an occaſion, as their deſire to have their money diſcharged. It was a grievous thing, and is not to be ſlighted; that their Eſtates being beyond Sea, my Lord of *Strafford* ſhould make ſo little of it. But my Lord anſwers nothing to theſe words, That the City of *London* was more ready to help the Rebels, than to help the King, and he doth well not to do it, for whoſoever doth help a Rebel, is of the ſame condition with the Rebel. For the matter of the Letter, it is of no great importance whether it be ſo or no? But the matter is, What ſpeeches were uſed? my Lord ſays, the Speeches are proved by only one Witneſs; But the truth is, one Witneſs poſitively ſwears one part, and another the other part; but both agree, That my Lord *Cottington* was there, though Sir *William Parkhurſt* doth not remember it. *Mr. Maynard's* Reply.

Mr. *Whitlock* added, That my Lord of *Strafford* is pleaſed to mention a Letter from an honourable Perſon, my Lord of *Leiceſter*, and now he obſerves, it was a *Gazette*, and no Letter at all from my Lord of *Leiceſter*. Mr. *Whitlock.*

But

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But my Lord of *Strafford* deſired, he might not be miſtaken, he being very tender to have it laid on him, that he ſhould in any thing ſpeak untruth, or contradict himſelf.

Their Lordſhips know, the *Letters* ſent familiarly every week from my Lord of *Leiceſter's* Secretary, as News to the Foreign Committee, are only in the nature of a *Gazette*, and ſo he intended to open it.

Mr. *Stroud.*

Mr. *Stroud* added, Tthere is ſomething in the Tract of this *Article* that ſticks near to me, aad I cannot let it paſs; Whereas my Lord ſays, Words are only laid to his Charge, which argues his innocency in Fact, in that he hath been ſparing in doing, whatſoever his Language is; Firſt, The Laws are clear, that words may be Treaſon, and to every man's reaſon it ſounds thus far, That words in conſequence may go beyond ſome actions; and words of the higheſt nature he hath uſed, all trenching deeper on us than ſome Acts might have done: to counſel his Majeſty in things of that conſequence, it touches not only on the ſafety of his Majeſties Crown, but alſo on the Liberty of his People, and may go beyond force; for if my Lord of *Strafford* had brought in his 8000 Iriſh by force, we might have withſtood them by force.

But when he goes to the Ear of a pious Prince, and inſinuates that we know not of, and brings a deſolation on a Kingdom, who ſhall repell ſuch Language, when force may repell Forces? And ſurely had he plotted and deviſed againſt his Majeſty, by any one (which God forbid he ſhould, or that his Majeſty ſhould be in that danger) the pretence of a Prince might have daunted a Traitor, that he could not have done the work; yet had he done it (which God forbid) a Prince, may dye with fair Reputation to Poſterity; but when he ſhall inſpire a Prince in his Ear, and provoke tyrannical Carriage to his Subjects, he may abuſe a good Prince, but how he may leave him to Poſterity, I leave to your Lordſhips.

But my Lord ſtays not ſingly in Counſel and Advice, but ſomething was done upon it. I appeal to your Lordſhips, when proof ſhall be brought in the caſe; and Firſt, Conſider the miſery that *England* is now in, what could have been done more to have made us miſerable, but abſolute deſolation? The Aldermen were committed that very day, and though it cannot be proved, he gave the immediate Counſel, yet he gave the Counſel that hath been proved, and that day four of them were committed; and this the Aldermen are ready to prove.

Sir *Henry Garaway* Interrogated, Whether any of the Aldermen were committed?

Garaway Witneſs.

He anſwered, That he ſhall not need to Anſwer that; for my Lord will confeſs it, there were four Aldermen committed, Alderman *Rainſton*, Alderman *Somes*, Alderman *Geere*, Alderman *Atkins*, and it was the ſame day they were there, to give an account of the able Men, and the Loan of 100000 *l.* Their Anſwer not giving Satisfaction, they were committed the ſame day to ſeveral Priſons; by what Order or Direction he knows not.

So

So Mr. *Glyn* desired their Lordships, to observe the words proved against him, That no good will be done on them, till they were laid by the heels, which my Lord says, produced no effect; yet that very day four were laid by the heels, and it rests upon their Lordship's Judgments, by whose Advice. *Article* 26. Mr. *Glyn.*

And Mr. *Stroud* concluded, That my Lord of *Strafford's* Words and Actions agree in this Kingdom, and the Miseries of this Kingdom, do agree with his Words and Actions.

And so the 26th Article *was concluded.*

THE

THE Seven and Twentieth Article.

The Charge.

Article 27. Charge. That in or about the month of August last, he was made Lieutenant General of all His Majesties Forces in the North, prepared against the Scots, and being at York, did then in the month of September by his own authority, and without any lawful Warrant, impose a Tax on his Majesties Subjects in the County of York of eight pence per diem, for maintenance of every Souldier of the Trained-Bands of that County, which sums of Money he caused to be levied by force. And to the end to compel His Majesties Subjects out of fear and terror, to yield to the payment of the same, he did declare, that he would commit them that refused the payment thereof, and the Souldiers should be satisfied out of their Estates; and they that refused it, were in very little better condition than of High Treason.

Mr.

Article 27.

M. *Maynard.*

MR. *Maynard* proceeded to the 27*th Article*; That the Earl of *Strafford* impoſed a Tax on His Majeſty's Subjects, in the County of *York*, of 8 *d. per diem*, for the maintenance of every Soldier of the Trained-Band of that County, cauſing it to be levied by force; Threatning them that refuſed with Commitment, and that they that did not Pay, the Soldiers, ſhould be ſatisfied out of their Goods, and they were in little better Caſe, than the Caſe of High-Treaſon, that refuſed to Pay.

The ſtate of their Proofs will ſtand thus; there were Three Levies; Firſt a Months Contribution, and that was for the general; The Second, a Contribution for a Fortnight, and that was for two particular Regiments or Companies; A Third, for a Month more, ſo it was for ten Weeks in the whole.

My Lord of *Strafford* pretends Two things in his Anſwer for his excuſe.

Firſt, That it was upon a Petition from the Country; To that we ſay this, The Country did Petition His Majeſty, offering their endeavour, in that Petition they likewiſe deſire a Parliament for redreſs of Grievances, with which Petition ſome principle Gentlemen of the Country, attended my Lord of *Strafford*, deſiring his aſſiſtance; He likes well the Clauſe concerning the Petitioners endeavours, but not that touching the Parliament; and therefore he would not deliver it: though he ſaid, it would fall out there would be a Parliament, His Majeſty having reſolved it, but he likes not that they ſhould Petition it. They refuſing to retract from their Petition, he doth in the name of ſome of his Lordſhips Friends, and Dependants, and Recuſants, prefer another Petition, but it was when the Gentlemen of the Country were gone, and ſo there was no conſent of the Country.

The other thing he pretends is, That the Lords of the Great Council, had conſented to that Impoſition, which we ſay is not true, there was no ſuch Conſent or Direction; yet this he ſaid, both in the Country, and in his Anſwer, aud their *L*ordſhips beſt know, that the Lords of the Great Council did not give that Direction.

The firſt thing offered, was the Petition firſt intended, which Sir *Hugh Cholmley*, and Sir *Philip Stapleton* affirming on Oath, to be the true Petition, their Hands being to it amongſt others, was read, being in effect.

Atricle 27.

The Humble Petition of the Gentlemen of the County of *YORK.*

WHEREAS Your Majeſty imparted to us the danger, by the incurſions of the Scots, *and the neceſſity of continuing the Trained-Bands of this County in entertainment for two months, and raiſing money ſo long, and did Royally aſſure us, That the Wardſhips of ſuch as dyed in this Imployment, ſhould be freed, and one third part of the Trained-Bands ſhould be abated, for which we acknowledge our bounden thankfulneſs, in ready obedience to Your Majeſties Command, we have repreſented to Your Majeſty our preſent Condition, and in the entrance of the buſineſs, we found a great impediment and diſcouragement, by certain Warrants produced for levying money, towards this new ſervice, wherein in the firſt place, we cannot omit to let Your Majeſty know, the great grief we have, in that the County is there charged with diſaffection and backwardneſs therein, which as we are confident, we never were guilty of, ſo we were in good hope, Your Majeſty had received no ſuch Impreſſion of us. And in the next place, we find our ſelves much grieved, that the execution of ſuch Warrants, which we conceive illegal, ſhould be concluded and urged on peril of Life; notwithſtanding the ſtrictneſs of which Warrants, we find divers parts of the County have not been able to pay the money demanded, and from thence, and the atteſtation of divers Gentlemen, we are aſſured the ſcarcity of money is ſuch, that it is diſabled from ſatisfying Your expectation therein; And that Your Majeſty may know it is no pretence, but a real poverty; we are bold to repreſent the Charges,* viz. *of*

Ship-money.
Vaſt Expences the laſt year in Military Affairs.
The Billetting and Inſolency of Soldiers this Summer, part of the time on the credit of the County.
Decay of Trade.
Stop of Markets.
Charge of Carriages, eſpecially in Harveſt, by which means, not only the Common People, but moſt of the Gentry, by the failing of Rents, are much impoveriſhed:

And therefore we Petition Your Majeſty, You will accept our endeavour, to prevail with the Country to raiſe ſo much money, as will pay the County one whole month, from their firſt riſing, within which time, (as is generally reported) Your Majeſty hath Commanded the attendance of the Peers, to conſult for the ſafety of the Kingdom, and pray the Trained-Bands may be continued in the Villages, where they are Quartered, except Your occaſions otherwiſe require it; and in the interim, for the redreſs of theſe Grievances, and ſecurity of Your Kingdom, Your Majeſty will pleaſe, to declare Your Pleaſure for Summoning the High Court of Parliament, &c.

To

Article 27.

To prove that my Lord of *Strafford* refuſed to deliver this Petition, and that another was framed, to which the Country conſented not.

Sir *Hugh Cholmley* was Sworn and Interrogated, Whether this Petition was ſhewed my Lord of *Strafford*, and, Whether he was not unwilling to deliver it, and why?

Sir *Hugh Cholmley* Witneſs.

He Anſwered, That this Petition was ſhewed to my Lord of *Strafford*, in the Name of the Gentlemen that had ſubſcribed it, and it was delivered to him by my Lord *Wharton*, and of thoſe Gentlemen that ſubſcribed their Hands, many were gone out of Town, and deſired that thoſe that ſtaid in Town, might attend my Lord *Wharton*, and intreat him to deliver it to my Lord of *Strafford*, and when it was delivered, my Lord of *Strafford* took only exception (at leaſt he the Examinant) is ſure that was the chief exception) becauſe they Petitioned for a Parliament; and ſaid, that leaving out that Clauſe, he would join with him in the Petition.

Being Asked, What he knew of another Petition framed afterwards?

He Anſwered, That at that time no other Petition was framed, by the Gentry of the Country, this Petition being rejected; for my Lord of *Strafford* went and delivered ſome meſſage to the King (he thinks for the maintaining of the Trained-Bands a month) and many of them that did ſubſcribe to the Petition not conſenting to it, met together, intending to make a Petition and Proteſtation againſt it, and did ſo; intending to deliver it to His Majeſty, but it was not delivered.

Being Asked, What moneys were levyed, by whoſe Warrants, and for what time?

He Anſwered, That he can ſay nothing to the levying of money, but in general, he thinks money was levyed.

Sir *Henry Cholmley* Sworn and Interrogated, What my *Lord* of *Strafford* ſaid concerning money?

Sir *Henry Cholmley* Witneſs.

He Anſwered, That he had the Honor to be one of the Colonels of the Trained-Bands, and received Command from my *Lord* of *Strafford*, being *Lieutenant*-General of the Army, to give account in what ſtate his (the Examinant's) Regiment ſtood? of what ſtrength it was, and how provided of money? That he repaired to his *Lord*ſhip, and told him, That notwithſtanding the Warrants ſent out, they came not to him, and unleſs he had money ſhortly, the Regiment would disband; That his *Lord*ſhip anſwered him, he would ſend a levy on the Goods of thoſe that refuſed.

Being Asked (on my *Lord* of *Strafford*'s motion) Whether he did ſo ſend?

Article 27.

He Anſwered, No; that he knows of.

Sir *John Hotham* Sworn and Interrogated, What he knew touching the Petition, and my Lord of *Strafford*'s rejecting it?

Hotham Witneſs.

He Anſwered, That concerning the Petition, it is true, that being to meet together in the Afternoon at the Common-Hall, they did firſt conſult, what to repreſent to my Lord.

But when they came there, my Lord refuſed, and made doubt of delivering the Petition, unleſs they would put out the Clauſe concerning the Parliament, and ſome thought it fit to preferr it without it.

Some of the Gentlemen that had petitioned, went out, and delivered in ſomething to the King, but what it was he knows not.

And for levying of the money, he can ſay nothing to it; Warrants were ſent out by the Vice-Preſident, but how far my Lord was intereſted in it, he can ſay nothing at all.

Sir *Philip Stapleton* Sworn and Interrogated, as to the delivering of the Petition.

Sir *Stapleton* Witneſs.

He Anſwered, That for the Petition, he can ſay his Country-men being ſent for to *York* by the King, and intimation given, that they ſhould keep their Trained-Bands for two months, they deſired time to give an Anſwer, which was allowed them as they deſired, till the next Day. They met that Night, and though my Lord-Lieutenant deſired to meet with them, they met firſt by themſelves, and drew this Petition; for my Lord being Lord Lieutenant-General, and a Privy-Counſellor, they ſhould not have been ſo free to deliver their Opinions, though he (the Examinant) thinks ſome of them ſhould have been free enough. They drew the Petition, and he thinks there was 100 hands to it, and being delivered to my Lord-Lieutenant, he took exception, becauſe it concluded with deſire of a Parliament, and told them, if they would leave out that Clauſe, he would deliver it, if not, he would not, and after long Diſcourſe (wherein he ſhewed much Eloquence) moſt of them continued their reſolution to ſtand to that Petition, and many went out of Town and left it, without making queſtion but it ſhould be delivered to His Majeſty. My Lord after put it to Vote, whereof there were many Papiſts, and on the Vote delivered an Anſwer, what, he (the Examinant) doth not know, for he ſtaid behind to draw another Petition, and an humble Proteſtation to His Majeſty, that this Petition was the Anſwer of the Country.

Lord *Wharton* being Sworn and Examined to the point of the Petition?

L. *Wharton* Witneſs.

His Lordſhip Anſwered, That this was unexpected to him, for he heard not of it from the Committee, till he came into the place, but he can perfectly ſpeak to it, having a little Intereſt in it, himſelf being one of them who ſubſcribed it; That on *Saturday* in the Afternoon, being appointed to attend my Lord of

Strafford

Strafford touching this buſineſs (for moſt of the Gentlemen deſiring to be at home) on a ſudden went out of Town, and deſired him with ſome others, to deliver this Petition to my Lord, by his own hand, to be delivered to the King, he did ſo, and accordingly deſired my Lord to deliver it in the name of the Gentlemen, that had ſet their Hands to it, many being likewiſe with him on that occaſion; That my Lord of *Strafford* took exception to the Clauſe for a Parliament, and ſaid, That if they would put that out, he would join in the reſt of the Petition. Divers of the Gentlemen that were there (there being not many that had ſet their Hands) would not go back from that, which with ſo much Humility and Reaſon, they thought was deſired; thereupon my Lord would not deliver it, and went to the King. But they that thought not fit to have the Petition altered, thought not fit to go with him to the King; and what he ſaid, he (the Examinant) knows not. *Article* 26.

Sir *William Pennyman* being Sworn and Interrogated, Whether a Warrant now ſhewed him, was not under His Hand and Seal. *Pennyman* a Witneſs.

He confeſſed it was his Hand and Seal.

And that being deſired to be read.

Sir *William Pennyman* offered to their Lordſhips, that he preſumes he comes to be a Witneſs againſt my Lord of *Strafford*, not himſelf, and referred it to their Lordſhips, Whether he ſhould anſwer any thing againſt himſelf, this having an oblique aſpect on himſelf; but if their Lordſhips will require him, he will ſubmit.

But Mr. *Maynard* upon opening of the matter, ſhewing that they urge it only as grounded on my Lord of *Strafford*'s Command for levying of Moneys. Mr. *Maynard.*

It was read, being to this effect.

To the Conſtable of Serjeant-Major *Tayworthe*'s Company.

WHereas the Lord-Lieutenant-General of His Majeſties Army, by His Majeſties Command, ſent forth Warrants to the Conſtable of this Weapontake *of* Longborough, *for Collecting and Paying the Soldiers of my Regiment, Six Weeks Pay, to be delivered from my hands, which is not yet received from,* &c.

Theſe are therefore once more in His Majeſties Name, to Will and Require you forthwith, to pay, or cauſe to be paid to the ſaid Serjeant-Major, the ſeveral Rates and Proportions, both of the Firſt and Second Contribution, Aſſeſſed on your Town, &c. *And if any perſon, or perſons ſhall refuſe ſo to do, you are inſtantly on receit hereof, to bring him or them,* &c. *to ſerve in their own perſons, for the defence of this County, as the neceſſity of this Cauſe requires; and hereof,* &c. *fail not* 19 Octob. 1640.

William Pennyman.

Sir

Article 27.

Sir *William Pennyman* being Asked, Whether the Warrant was grounded on a former Command of my Lord of *Strafford*?

He Anſwered, That he cannot directly ſpeak to that, he will not charge his memory with it; for, he thinks, the firſt Warrant was iſſued by the Vice-Preſident, and, whether any was iſſued by my Lord of *Strafford*'s direction, he cannot Anſwer preciſely, but he conceives there was; and, he hath a confuſed notion in his head, but he cannot particularly and diſtinctly remember it.

Being Asked, Whether he knew any Deputy-Lieutenants were drawn to iſſue a Warrant, to levy money on the Country on this ground, that the Lords of the Great Council had conſented to it?

He Anſwered, That he conceives they were ſummoned thither together, and on this occaſion; when the Trained-Bands were diſbanded, it was thought fit the Frontier-Regiments, *viz.* his (the Examinant's) and Sir *Thomas Danby*'s, ſhould be continued, but he (the Examinant) conceiving it unreaſonable and unequal, that they ſhould continue at their own Charge, and the reſt not tributary to them; and, at leaſt, they not being ordered to march ſucceſſively to relieve them; he (the Examinant) complained thereof to my Lord of *Strafford*, they were thereupon ſent for, and an Order was made, to which he (the Examinant) refers himſelf.

Being Asked, Whether it was not to this effect, Whether thoſe that would not pay their money, ſhould ſerve in Perſon?

He Anſwered, Sure he believes it was, for his Warrant is a relative Warrant to that other.

Being Asked, On what Grounds the Deputy-Lieutenants were induced, to make ſuch an Order? and, Whether it was not on an Allegation, that the Lords of the Great Council had Conſented, or Commanded, it ſhould be done?

He Anſwered, That he preſumes it is matter of Record, if a Man may ſay ſo, for the Warrant will ſpeak: But, he preſumes there was ſome ſuch thing ſpoken by my Lord of *Strafford*, that he had accquainted His Majeſty with it, or the Greateſt Council, or to that effect, and that induced them to put that into the Preamble of the Order.

Being preſt to ſpeak his knowledge,

He Anſwered, That truly he verily believes it was ſo.

Being preſt again to ſpeak his knowledge poſitively.

He Anſwered, That he doth very confidently and aſſuredly believe it is ſo, but he doth not particularly remember it, for it is a great

great while ſince he ſaw that Warrant: but, it is matter of Record, and if he ſees a Copy of the Warrant, he ſhall let their Lordſhips know, whether it be a true Copy. *Article* 27.

Being preſt further to Anſwer, Upon what ground it was made? And, whether upon an Allegation of a Conſent, of the Lords of the Great Council?

He Anſwered, That he cannot further Anſwer than before: He doth very confidently believe it to be ſo; for, he doth remember, my Lord of *Strafford* told them, he had acquainted the King's Majeſty, or the Lords of the Great Council, which induced them to put them into the preamble of the Order.

Being yet urged to Anſwer Categorically.

He Anſwered, That he verily believes my Lord did ſo; and that under favour, reaches almoſt to a knowledge, the thing is ſo notorious, that the thing it ſelf may be known.

Being required to ſpeak his knowledge, Whether my Lord of *Strafford* told them, the Lords had Commanded, or Conſented to it?

He Anſwered, When that was ſpoken of, he was out of the Room, and it was drawn by Mr. *Rockley* a Deputy-Lieutenant; but, Mr. *Rockley* told him my Lord did ſay ſo.

Being yet again preſt to a poſitive Anſwer (Mr. *Maynard* obſerving to their Lordſhips, That when a Gentleman is brought upon his Oath in a Cauſe of this Conſequence, this Dalliance is not to be admitted.)

He Anſwered, That he Anſwer'd as clearly as can be, And the Gentlemen will not preſs him beyond his knowledge; He ſays, he doth confidently believe it, but under favour, he was not at that time in the Room, but Mr. *Rockley* told him, my Lord of *Strafford* had acquainted the King and the Great Council.

Mr. *Maynard* obſerving, That now he ſpeaks leſs then before; and deſired he might be Interrogated, Whether at that time, or at any other time, my Lord of *Strafford* told him, The Lords of the Great Council had aſſented to this Levy?

Which being propoſed;

He Anſwered, He doth confidently believe my Lord did it; It may be proved by a great many others; but he is confident of this, as of any thing in the World, That my Lord had acquainted the Lords of the Great Council, and His Majeſty, and that he did it by their Conſent; and, therefore they put it into the Preamble of their Order.

Sir *Hen.*

Article 27.

Sir *Hen. Griffin* Sworn and Interrogated, Whether my *Lord* of *Strafford* ſaid, The *Lords* of the Great Council had conſented to the levying of money?

Griffin a Witneſs.

He Anſwered, He heard my *Lord* ſay ſo indeed (or elſe they had not ſet their Hands to the Order) that he had Direction from the Great Council, to levy money for Sir *William Pennyman*, and Sir *Tho. Danby*'s Regiments.

Being Interrogated, In what manner the money was to be levyed?

He Anſwered, That he doth not know in what manner.

Lord *Clare*.

Being Asked (on my Lord of *Clare*'s motion) What he meant by this Direction?

He Anſwered, That there was an Order made from all them that were Deputy-Lieutenants, and my Lord of *Strafford* as one; and this is the Order concerning the levying of money for the two Regiments.

Mr. *Glyn*.

Being Asked (on Mr. *Glyn*'s motion) Whether my *Lord* of *Strafford* had not directed the money to be levyed in manner as is expreſt in the Order?

He Anſwered, That to his beſt Remembrance, my Lord did ſay ſo, he muſt confeſs.

Being Asked, Whether in caſe any refuſed to pay this money, they were not to be compelled to ſerve in Perſon?

He Anſwered, There was ſuch a Clauſe in the Order, to his beſt Remembrance.

Mr. *Strickland* a Witneſs.

Mr. *Robert Strickland* Sworn and Interrogated, Whether my Lord of *Strafford* ſaid, The Great Council had directed Warrants ſhould be iſſued for the levying of money?

He Anſwered, Yes: It cannot be deny'd: He (the Examinant) gave a Copy of that Order, when the laſt Commiſſioners were at *Rippon*; and he ſaw a Gentleman even now behind him that had a Copy of the Order and Warrant, and it is declared, that it was done by the Great Council of the Peers.

Burroughes a Witneſs.

Sir *John Burroughes* Sworn and Interrogated, Whether he knew of any ſuch Warrant, or Order, for levying money for thoſe two Regiments?

He humbly intreated, That he might have their Lordſhips direction, before he Anſwered the Queſtion; for, their Lordſhips know very well, that, by His Majeſty's Command, he was appointed to be

be Clerk or Regiſter of the Great Council: Moreover, he conceives, That (by his Duty, all Orders and Reſolutions of the Houſe, eſpecially thoſe that concerned third Parties, without asking leave) he was deliver to the parties, if they required them: But, for ſuch Debates and Arguments, as were uſed in the Great Council, to and again, between their Lordſhips, he humbly intreated their Lordſhips Direction, Whether he ſhould publiſh any thing of them or no? And, upon their Lordſhips Order, he ſhall clearly, and with all integrity, deliver the truth. *Article* 27.

Being permitted by their Lordſhips, to ſpeak to the Queſtions propounded.

He proceeded, and ſaid, That he hath a very good cauſe to remember, that upon the 20*th* of *October*, he went to my Lords Commiſſioners for the Scotch Treaty at *Ripon*, and, upon that day, there were two prime Gentlemen of thoſe parts, that came and attended the Lords, he thinks, about buſineſs of their own, and, he ſuppoſes, only to tender their Service to their Lordſhips; That, amongſt ſome other Diſcourſes betwixt the Lords and them, they mentioned ſome ſuch Order as this was, concerning the relieving of the two Regiments, that were for the Guard of *Richmondſhire*, and ſome other of thoſe parts, made, as they ſaid, by the Great Council of the Peers; and thereupon, that themſelves, my Lord of *Strafford*, and the reſt of the Deputy-Lieutenants, and granted out Warrants, for the Aſſeſſing of Money for the relieving of thoſe Regiments; Thoſe that heard it were ſtartled at the Order, being ſaid to be an Order of the Great Council; and commanded him (the Examinant) to inform them, Whether he knew of any ſuch Order? He told them, He remembers not any ſuch Order, and was confident he never drew up any, becauſe he never heard any mention of thoſe two Regiments in the Great Council. Their Lordſhips asking him, whether he was ſure of it? he told their Lordſhips, he would look on his Notes, and faithfully inform them how the caſe ſtood, he did ſo, and came back to their Lordſhips, and told them he found nothing in his Notes of theſe Regiments; and while he was there, he was confident no Order was drawn up; It is true, (he told their Lordſhips) ſome Order might be drawn up when he was abſent, for he was firſt at *Ripon*, and at *York* he was oftentimes employed in the Committee to write Letters and Orders, and what was done in his abſence, he could give no anſwer to; but confident he was, no Order was made befor the 20*th* of *October* by him, or in his hearing or knowledge. Hereupon the Lords deſired theſe two Gentlemen, to give them Copies of the Warrants they had ſent out, And that he (the Examinant) ſhould take their Teſtimony, which he did; this was the Twentieth or Twenty ſeventh of *October*, which was the laſt day of the Great Council of the Peers. My Lord of *Strafford* in Council then did take notice, that ſome ſuch thing had been done at *Ripon*, and then ſaid to my Lord, that

Article 27.

he did conceive he had the King's Order, and their Lordſhips approbation, for the iſſuing out of this Warrant. But, ſince he conceived their Lordſhips diſliked it, he had taken Copies of it, he was very willing to withdraw theſe Warrants: And, on Debate, there was nothing more done; For his part, he never drew up an Order, nor was he commanded to draw it up.

Being asked (on my Lord of *Strafford*'s motion) Whether on that laſt day, his Majeſty was not pleaſed to ſay in the Council, That what the Earl of *Strafford* did in that Affair, was with His conſent?

He anſwered, It is true, He did give his conſent to it, and commanded him to go on with it; when he (the Earl of *Strafford*) deſired, if any thing were amiſs in it, he might call back his Warrant again, and that he might eaſily do it, and no hurt would come of it; and, whether his Majeſty did thereupon affirm, that my Lord of *Strafford* had formerly acquainted Him with it, and He commanded him to go on?

He anſwered, That it is very true, my Lord Deputy appealed to the King, Whether he had not his Majeſties Approbation and Order for it? and, the King ſaid, He did acquaint Him with it before the Lords; But not (to his knowledge) that He commanded him to proceed.

Being asked (on my Lord of *Eſſex*'s motion) Whether ſome of the Lords did not take exception at the Warrant, and likewiſe thought fit, it ſhould be called in again?

He anſwered, That the Vote generally of the Lords was againſt the Warrant; but, he remembers not any thing ſaid for the recalling of it; but, they abſolutely declined the making of any ſuch Warrant.

Being asked (on my Lord of *Strafford*'s motion) Whether it was Voted or no?

He anſwered, That it was ſpoken to by ſeveral of my Lords, but all declined it.

Being asked, Whether he had the Warrant, or a true Copy of it?

He anſwered, He hath a Copy of that which was delivered him, by the two Gentlemen that were then at *Ripon*, and their Hands are to it, to atteſt it; and, he ſaw them ſet their hands to it himſelf.

Being bid to name the two Gentlemen.

He ſaid, They were Mr. *Robert Strickland*, and Mr. *Mallard*, who did affirm, That, to the beſt of their remembrance, this is a true Copy of the Warrant, ſent out to the ſeveral Diviſions.

To

Article 27.

To prove Execution by force,

Mr. *Henry Cholmeley* Interrogated, What he heard the Earl of *Strafford* ſay, touching the Vice-Preſidents iſſuing of Warrants?

Cholmeley witneſs.

He anſwered, That ſhortly after my Lord of *Strafford*'s coming to *York*, in the Preſence-Chamber at *York*, he (the Examinant) among ſome other Gentlemen, were ſummoned to be there, where my Lord of *Strafford*, ſpeaking of the Trained-Bands, occaſion was offered by another that was there, How the private, or common men ſhould be maintained? My Lord of *Strafford* anſwered, It had been always the Cuſtom, that the private men ſhould ſerve themſelves in perſon, or maintain the charge of them that ſerved for them; and, the common mens charge is borne by the ſeveral Conſtables in the Towns where they live: And, he ſaid to his Majeſty, Sir, if you pleaſe, Mr. Vice-Preſident may, or ſhall (the Examinant knows not which) ſend out Warrants to that purpoſe; but, whether he ſent out any or no, he cannot tell.

William Dowſen Sworn, and Interrogated, How he hath known thoſe moneys for the Trained-Bands, levied?

Dowſen witneſs.

He anſwered, (His Anſwer being commanded by the Clark, the Witneſſes having a low voice.) That Mr. *Yaworth*, Sergeant-Major to Sir *William Pennyman*, came with four Muſquetiers to the Lordſhip of *Egton*, and ſent them for Aſſeſſors, and when the Aſſeſſors came, they were importuned to have them Aſſeſs (for they had been unwilling to Aſſeſs) and, if they would not, they ſhould anſwer it before my Lord General, and then they conſented to Aſſeſs; and he ſhewed a Warrant from Sir *William Pennyman*, and gave it to the Conſtable for the Collection of the money.

Being asked, Whether he threatned, that he ſhould ſerve in perſon, if he did not pay?

He anſwered, Yes, by Sergeant-Major *Yaworth*, and ſo he ſerved under Sir *William Pennyman*'s Regiment.

Being asked (on my Lord of *Strafford*'s motion) Whether he ſaw any Warrant of his?

He anſwered, No.

Being asked, Whether the four Muſquetiers did not go along with the Conſtable, from place to place to levy the money?

He anſwered, Two Muſquetiers went with every Conſtable to levy it.

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William Pierſon Sworn, and Interrogated, Whether four Muſquetiers, or Soldiers, did not come to collect this money?

Pierſon witneſs.

He anſwered, Yes. And he ſaw them in the Town, go altogether in with the Conſtables; but, in the deales or outſides, there went but with each Conſtable one; The Lordſhip conſiſts of Long Deales, diſtant one from another Twelve ſcore, and, in thoſe out-places, one went with a Conſtable, but, in the Town, all four went.

Being Interrogated, By what Warrant?

He anſwered, That he did ſee a Warrant that was receiv'd from Captain *Taiworth*, under Sir *William Pennyman*'s Hand, and he ſaw his Name at it.

Sir *William Ingram* Sworn, and Interrogated, What he hath heard my Lord of *Strafford* ſay, touching this buſineſs of levying money? and, What condition they were in that deny'd to pay it?

Ingram witneſs.

He anſwered, That ſoon after the Trained-Bands were commanded to be drawn forth, he found the opportunity, and did move my Lord of *Strafford*, acquainting him what caſe Soldiers were in; For he (the Examinant) had been with the Soldiers, and found them willing to march, if they might know how to be maintained: the Maſters had refuſed to pay the private men, and the Conſtables ſaid, the Pariſhes were ſo poor, that they could not collect any more money; and deſired, his Lordſhip would be pleaſed, before they were drawn forth, he might know how they ſhould be maintained: And, his Lordſhip gave him this Anſwer, That the private men muſt maintain their Soldiers after the rate of 8 *d.* a day, ſo long as they were forth, elſe he would commit them, and order ſhould be taken, the Soldiers ſhould be maintained after 8 *d.* a day, out of their Eſtates; And commanded him (the Examinant) to ſpeak to the Conſtables, that Aſſeſsments might be made for the maintenance of the Common Army; and, if they did refuſe to pay their parts of an Aſſeſsment, they ſhould be likewiſe committed to Priſon, and lye there, and the Common Soldiers ſhould be maintained after the rate of 8 *d.* a day; and, he would have men know, that refuſing to pay ſuch Contribution, they were in little better condition, than guilty of High-Treaſon.

Sir *Henry Griffin* being Interrogated, Whether my Lord of *Strafford* ſent not Meſſengers to them, that refuſed to pay this money Aſſeſſed?

Griffin witneſs.

He anſwered, That indeed he doth not know of any thing concerning the two Regiments of Sir *William Pennyman*, and Sir *Thomas Danby*; but, for his own, he can ſpeak, That about the latter end of *Auguſt* laſt, he was commanded by the Sergeant Major-General of the Trained-Bands, to advance his Regiment; and, aſſoon

aſſoon as they were advanced, there iſſued forth Aſſeſsments for a whole months pay, for his whole Regiment; and, on this Warrant he received 300 *l.* or thereabouts, but more they would not, nor could not pay; whereupon he went to my Lord of *Strafford*, and told him, He could not keep his Companies together without money; and my Lord bid him go back to his Regiment, and he would take a Courſe, and my Lord did grant forth his Warrant, and on that was pleaſed to ſend a Meſſenger (as he thinks) to the Conſtable, to whom it was directed, and the Meſſengers went from Conſtable to Conſtable, and all was paid. *Article* 27.

Being asked (on my Lord of *Strafford*'s motion) whether it were paid voluntarily?

He anſwered, They were for ought he knows.

Sir *Hugh Cholmley* being Interrogated (on Mr. *Maynard*'s motion) of what quality thoſe Perſons were, that ſtaid with my Lord of *Strafford*, and joyned in the latter Petition? and, Whether many of them were not Recuſants?

He anſwered, That there were ſome of them Gentlemen of very good quality, a few that had retracted their hands from the Petition, ſome ſeven or eight, and he doth not know, whether there were not many Papiſts, but they took a Note of four or ſix and twenty, to his beſt remembrance, that the Country had a Character on them to be Papiſts, and men affected that way, but he knows not whether they were Convicted or no. *Cholmley* witneſs.

And ſo Mr. *Maynard* ſaid, They ſhould leave this *Article* a while, in expectation of my Lord of *Strafford*'s anſwer, and then they ſhould recollect their proofs; in the mean time they ſuppoſed every particular was proved. Mr. *Maynard*.

My Lord of *Strafford*, after ſome time granted him to recollect his Notes, made his Defence in ſubſtance as follows.

And Firſt, he deſired leave to read the Charge, and their Lordſhips ſhould find, how little of the matter opened before them this day, was therein contained, and ſo he is not accountable for it. E. of *Strafford*'s Defence.

He read the *27th Article*.

That in or about the month of *Auguſt* laſt, *&c.* His Lordſhip craved liberty to diſſent from that worthy Gentleman that ſpoke laſt, who in his opinion, is very much miſtaken, who was pleaſed to ſay, That all was fully proved; for he conceives, little or nothing is proved as to him.

That he might give their Lordſhips the clear ſatisfaction, he deſired to go on in their own Order; and as the Proofs were offered, he ſhall offer his Anſwers.

The firſt thing ſpoken of, is a Petition drawn up by certain Gentlemen, whereby they did offer a months pay to the Trained-Bands, which

Petition

Article 27. Petition was ſhewed the Defendant, and was refuſed by him to be delivered, and the Reaſon aſſigned is, becauſe in the latter part there is contained a Petition for calling of a Parliament, and that is laid to him as a Crime, but where it is, he doth not find, and when he doth, he will anſwer and acknowledge it.

He acknowledged there was ſuch a Petition, and that it was ſhewed to him, and having not been acquainted with it formerly, he remembers very well, he deſired to be excuſed from medling with it; for having the Honour at that time to be the King's Lieutenant of the County; beſides that, he was Lieutenant-General of the Army, and having ſome poor ſhare there, though not ſo great as other men, he thought it very ſtrange, that when the King had appointed them on *Tueſday* to meet together, and adviſe how his Service might be complied with, they ſhould at a private meeting after Supper, reſolve of this Petition, and never make him ſo much as acquainted with it; And where he was made ſo great a ſtranger at the beginning of the buſineſs, he appeals to their Lordſhips whether he had reaſon to be over officious, to ſerve them in the concluſion.

He acknowledges the Petition was delivered him, and on the reading of it, when he heard that clauſe, of moving the King for a Parliament, he diſadviſed it, and deſired to be excuſed concerning it, not ſo fitting at that time, nor for them on ſuch an occaſion: and therefore it might be left out, or a courſe taken to deliver it by ſome other hand than his; and he truſts it is no offence, for which he is any way puniſhable, to reſerve that Chriſtian Liberty in his own opinion, that he ſees cauſe for, when it may be done without breach of any Law penal, or good manners, his Liberty being as free then to himſelf, as to them. But it was not out of any unwillingneſs the Parliament ſhould be called; upon which they ſhould pinch him; and make their Lordſhips and the Gentlemen think him averſe from Parliaments, for he did tell them at that time, he was confident there would be a Parliament; and that on the coming together of the Great Council of the Peers, he did conceive his Majeſty would be pleaſed to call a Parliament; and that their Petition would neither further nor hinder it, and therefore it might be forborn, and the King left in his Acts of Grace to his People, that he might have all the Honor of it to himſelf; and that it ſhould riſe out of his Own Goodneſs and Royal Breaſt, not as adviſed to it on the deſire of any body elſe; and therefore he thought not fit that that ſhould be put into the Petition, not out of a deſire to avoid Parliaments; for it is well enough known, (and if need were) he could juſtifie himſelf in it, that no poor Servant the King had was more forward, nor ready, nor willing to adviſe the calling of this Parliament, than he was: but he ſhall ever conceive it fit in this caſe, to reſerve the Honor of the King's Grace and Favour, as much as may be to himſelf, and not to direct it to any other hand whatſoever, and did then (as always) as much as he could, apply the thanks of the People to the King his Maſter, and aſſume nothing to himſelf.

But this he conceives no crime, and therefore he ſhall not need to trouble their Lordſhips with proof of it, there being twenty Gentlemen in the room (he dares ſay) that will juſtifie him in this particular.

They come then and ſpeak of a ſecond Meſſage, to have been delivered by him to his Majeſty at *York*; hereby he is charged to have impoſed a Tax without lawful Warrant; he humbly affirms, and truſts, he ſhall manifeſtly prove it, that the thing was yielded to by their own univerſal

Aſſent,

Aſſent, and that it was levied by their own voluntary Will; and that there was nothing of force from the beginning to the ending of the buſineſs; for if he had dealt in that manner, he had been much to blame, tho' as he ſtood then qualified, he thinks himſelf not puniſhable for it. On Debate of the buſineſs, not above three or four diſſented, tho' there were Two hundred preſent, they were perſwaded and convinced, it was juſt and neceſſary to contribute, and moſt of them that did diſſent, have been examined before their Lordſhips; but they did abſolutely and totally lay aſide their Petition, and give him Commiſſion only in words, to ſignifie to his Majeſty, that they were moſt willing and ready to contribute the pay of a Month, for maintenance of the Trained-Bands, and that he did faithfully deliver. *Article 27.*

And whereas it is ſaid they are Papiſts, he ſhall name perſons as free from that Tax, as any men in the Shire, who did give their conſent, and he named divers of them.

To prove that he did nothing by force, but by unanimous conſent of all.

Sir *Paul Neal* was firſt called, and being Interrogated, Whether the Petition ſigned by the Lord *Wharton*, and the reſt, was not by the major of the Gentlemen there declined and laid aſide?

Neal witneſs.

He anſwered, That he was amongſt divers others, preſent at this meeting in the *Common-Hall*, and on the firſt coming thither, this Petition was preſented by my Lord *Wharton* in the name of the Gentlemen that had ſubſcribed it; on the reading of the Petition, my Lord of *Strafford* did conceive, that the Clauſe concerning the deſire of the Parliament was in it ſelf ſuperfluous, becauſe the King had declared his intention to have one, if at the meeting of their Lordſhips at *York* it ſhould be deſired; and therefore he deſired the Clauſe might be put out, and another Petition preſented to the effect of the former, only the laſt Clauſe omitted, and that might be verbally preſented by ſome ſuch man, as the major part of the Company ſhould chooſe, and on a long Debate, it was concluded (to the beſt of his remembrance) by Vote, and the whole Vote of the Company went, it ſhould be delivered by my Lord of *Strafford*, according to the ſubſtance of the Petition, the laſt Clauſe left out; and to the negative part, there were ſome four or five, he dares confidently ſwear, not above half a ſcore.

Being asked, What number there was of the Company, that were willing to have the Petition?

He anſwered, That the Hall was very full; he cannot give account of a certain number, nor knew the Subſcription of the Petition, for till now he remembers not, that ever he heard the particular names read; but there was, he thinks, 200 Gentlemen of ſeveral ranks.

Being asked, Whether it was not the voluntary conſent of them all, that a months entertainment ſhould be allowed the Trained-Bands?

He

Article 27.

He anſwered, That he conceives the conſent was given no fuller nor larger, but juſt the ſame as in the Petition, ſaving that one Clauſe.

Which Mr. *Maynard* obſerved, went not further than to promiſe an endeavour.

Sir *Paul Neal* being Interrogated, Whether the money was not voluntarily paid all over the Country, for the months entertainment, with force or violence?

He anſwered, he can give no anſwer to that, having nothing to do in the County as Deputy-Lieutenant, or Officer, and other than he heard by diſcourſe, he cannot ſpeak of his knowledge.

Being asked (on Mr. *Glyn*'s motion) Whether the major part of them that ſigned the Petition, did wave it?

He anſwered, That he conceives he gave an Anſwer to that before, for he remembers not, that till this day, he ever knew the names of the Gentlemen that ſubſcribed it, but only an atteſtation, that about 100 had ſubſcribed, and whether the major part of thoſe were preſent, he doth not know.

Being asked (on my Lord of *Strafford*'s motion) Whether he did not know divers of them that ſigned the Petition, declared themſelves for the waving of it?

He anſwered, He did not know who had ſigned it, and who not, ſaving only ſome Gentlemen ſpeaking in the Debate, did declare, that they in particular had ſigned it, and did recede from it.

Being asked, What he meant when he ſaid, that not above half a ſcore went to the negative of the Meſſage?

He anſwered, That he meant it of them that were in the Hall.

Sir *Edward Osborne* was called to be a Witneſs for my Lord of *Strafford*, but Mr. *Maynard* excepted againſt his being examined, as being one of them that ſent out the Warrant, for paying money on pain of death, and as Sir *William Pennyman* would have declined anſwering any thing of his own Act, as concerning himſelf, ſo it was deſired this Gentleman might not be examined to the juſtification of himſelf by ſaying, the money was levied by conſent.

But Sir *Edward* alledged to their Lordſhips, That there is particular complaint in the Petition againſt his Warrant, and therefore it was iſſued long before the Petition preſented.

After ſome further Debate, the Examination of him was reſolved upon.

Sir *Edward Osborne* being Interrogated, Whether the major part of them that ſubſcribed the Petition, and were preſent at the ſecond meeting, did not decline the Petition?

He

Article 27.
Osborne a Witneſs.

He Anſwered, That he cannot ſay the major part of them that ſubſcribed the Petition, did diſſent openly in the Hall, for he thinks many of them were gone out of Town, but he is ſure, the major part there, nay all, but about Ten, did conſent to the leaving out of the Clauſe, touching the Parliament, and to a months pay; and on that, it was humbly moved to my Lord (he cannot tell whether by himſelf the Examinant) that my Lord would do them the Honor, to repreſent their ready affections to do the King that Service, that he would be their mouth, which accordingly his Lordſhip did, and they all attended him when he delivered the Meſſage; and he doth not remember there was above 4 or 5 Gentlemen, that opened their mouths againſt this conſent, not in words, what their hearts were he cannot tell.

Being Asked, Whether many that had ſubſcribed the Petition, did not declare they would not wave it, and go the other way?

He Anſwered, There were ſome that did indeed, but he doth not know how many, Sir *Edward Robinſon* in particular, and gave his Reaſons for it, Sir *Richard Hutton* and ſome others.

Being Asked, How many Gentlemen he thinks were preſent at that meeting?

He Anſwered, the Hall was very full, and there were Gentlemen, Freeholders and others, to the number of 300, as near as he could imagine.

Being Asked, Whether that was not the place and time appointed by the King for the Country, to meet and treat about the buſineſs?

He Anſwered, Yes? it was ſo, by His Majeſty's ſpecial Command the day before.

Being Asked, Whether my Lord of *Strafford* did not go to the Mannor, and many Gentlemen with him, and delivered their Meſſage to the King faithfully and juſtly, as he had in Commiſſion to do, and no otherwiſe?

He Anſwered, That according to their deſire to his Lordſhip, he went preſently to the Mannor, and they all attended him, but he could not hear the Meſſage delivered, the croud was ſo great.

Being Asked (on Mr. *Maynard's* motion) Whether there was any difference between the Meſſage and Petition, but only the leaving out the laſt Clauſe touching the Parliament?

He Anſwered, Truly No, but the principal things he took notice of, was a months pay.

Article 27. Being Asked (on Mr. *Palmer*'s motion) of what quality they were that were in the Hall, whether not ſome that came to gaze only, and not proſecute the matter of the Petition?

He Anſwered, That is impoſſible for him to ſee through the Bodies of Men; but there were not many of inferior quality that he knew; but had he time to do it, they ſhould make a Catalogue of as many Gentlemen and Freeholders, as ſet their Hand to the Petition: but he cannot ſee in ſuch a Room as this, whether there be Serving-men, or Apprentizes in a croud.

Mr. *Maynard.* To which Mr. *Maynard* Anſwered, much leſs can he hear it.

Sir *William Pennyman* Interrogated, Whether the Petition deliver'd by my Lord *Wharton*, was by the major part of the Gentlemen that met, according to the King's appointment, at the place proper for the buſineſs, declined? And, whether they did not declare their conſent to a months Pay, and that my Lord of *Strafford* ſhould deliver the Meſſage by word of mouth?

Pennyman Witneſs. He Anſwered, That the major part did decline the delivery of the Petition, and it was done upon a Vote, there being ſome difference of Opinion, and he thinks truly, according to his conjecture, there were 200 Voices at the leaſt, to three or four. Happily ſome others tacitly might be of another Opinion, but there was to his beſt remembrance, three or four Voted againſt it.

Being Asked, Whether divers that Signed it, did not decline it?

He Anſwered, That divers that ſet their Hands to the Petition did retract it, whereof he himſelf was one, and divers other Members of the Houſe, whom he offered to name, if their Lordſhips required it, but that their Lordſhips did not think fit to direct.

Being Asked, Whether my Lord of *Strafford* did not faithfully and rightfully preſent to His Majeſty, the Meſſage, he was intruſted with?

He Anſwered, That he was one of them that went with my Lord, but was in the ſame condition with Sir *Edward Osborne*, for the crowd was ſo great that he could not come to hear.

E. of *Strafford.* Where my Lord of *Strafford* deſired their Lordſhips to take notice, that it was not in a corner when Gentlemen of their Quality could not come near.

Being Asked (on Mr. *Maynard*'s motion) Whether there was to be any difference, between what was to be delivered to the King, and that contained in the Petition, the laſt Clauſe excepted?

He Anſwered, That he conceives nothing was to be omitted, but only that of the Parliament.

L. *Wharton.* Being Asked (on the Lord *Wharton*'s motion) Whether he and another had

had not Commiſſion, to acquaint my Lord of *Strafford* from them that had ſubſcribed the Petition, that they had a Petition to be deliver'd his Lordſhip for His Majeſty, and, Whether he brought not word back again, That they ſhould wait on his Lordſhip with the Petition on *Saturday*, at One or Two of the Clock, and at his Lordſhips own Houſe, and whether they did not accordingly wait on him? *Article* 27. L. *Wharton.*

He Anſwered, That he did, and they did come, and it was purpoſely, that they might moſt of them go to the Hall, not to make my Lord's Houſe a place of his debate. *Pennyman* Witneſs.

Being Asked, Whether he was not directed to acquaint my Lord of *Strafford* with the Petition, and whether he brought back word about the time of attending?

He Anſwered, It is true he did, but he knows not whether he brought it on a Meſſage from my Lord.

Being urged to anſwer that poſitively, Whether he brought it as a Meſſage from my Lord?

He Anſwered, That it may very well be he did, he thinks he did; but, he added, in effect his deſire was to know, what the Queſtion tended to.

Mr. *Maynard* thereupon deſired of their Lordſhips, that a Witneſs at the Bar might not demand the meaning of a Queſtion, before he Anſwers to the truth of it. Mr. *Maynard.*

And Mr. *Glyn* obſerved, that my Lord of *Strafford* had ſeveral times beſought, he might go on quietly with his Evidence, and they hope their Lordſhips will juſtify them, that they have behaved themſelves as Men intruſted by the Houſe of Commons, and that their Lordſhips will not ſuffer this Language to be uſed. They muſt demand Juſtice. Mr. *Glyn.*

And Mr. *Maynard* added, that they deſired only that the Witneſs may readily Anſwer to the Queſtion propounded, and not adviſe what may be the conſequence, or enquire the intention of them, for they are to ſpeak only the truth. Mr. *Maynard.*

But my Lord of *Strafford* conceived it a very fitting Queſtion for the Witneſs, to deſire to underſtand the Queſtion before he Anſwers it, any that's all he doth, as he conceives. E. of *Strafford.*

Being required to Anſwer poſitively, Whether he brought that Meſſage from my Lord of *Strafford*, touching the time of delivering the Petition?

He Anſwered, That he did. *Pennyman* witneſs.

My Lord of *Strafford* here offered to their Lordſhips, that he conceives this Queſtion not material to him, he was then extream ſick, and

Article 27. and in his ſick Bed, when he ſhould ſend this Meſſage; and that truly, he was never in ſuch height of incivility towards any Man alive of a far meaner Quality than my Lord *Wharton*, as to ſend them word, they ſhould attend him at ſuch an hour, he knows what belongs to my Lord *Wharton*, and what to himſelf, much better, than to ſend for, or expect any attendance from his Lordſhip.

Sir *William Savill* being Interrogated, Whether the Petition Signed as aforeſaid, was not abſolutely by the major part of them in the Hall declined, and Voted, that it ſhould not be delivered?

Savill a Witneſs. He Anſwered, That he was there, and by the major part of the Gentlemen preſent, it was delivered, and conſented, that my Lord ſhould deliver the ſubſtance of the Petition to the King, by word of mouth, ſaving the laſt Clauſe concerning the Parliament.

Being Asked, Whether there were not divers that Signed it, who did afterwards retract it? and, Whether himſelf did not?

He Anſwered, There were, and that he himſelf Signed the former Petition, and then it came to be diſputed before them, whether they ſhould retract it or no? he was againſt the retracting of it, and many delivered Votes againſt it, under 10, he believes, and for his own part, he ſaid nothing to it; but it was carried ſo clearly by the Opinion of them preſent, that he went along with a great number of Gentlemen, that went with my Lord to the King, and he heard my Lord faithfully deliver the ſubſtance of the Petition in every thing, and with more Advantake to them, than the Petition was drawn, except the buſineſs of the Parliament.

Being Asked, Whether part of it was not the conſent to a months pay of the Trained-Bands?

He Anſwered, That he verily believes, it was the intention of them all, that a months pay ſhould be paid to the Soldiers of the Country, and the months pay was paid.

Being Asked, Whether it was not willingly and voluntarily paid in every place without conſtraint, to his knowledge?

He Anſwered, That in that part where he lived, no body denyed whatſoever was asked, ſo there was no preſſing of any body to pay a penny, nor complaint of any body for want of money.

Sir *William Pennyman* being asked to the laſt Point?

Pennyman Witneſs. He Anſwered, That it was with a great deal of alacrity and chearfulneſs, and he heard no Man repine at it, then nor ſince.

Sir

Atricle 27.

Sir *Edward Osborne* Interrogated to that Point?

Osborne a Witneſs.

Anſwered, He never knew of any forcible Courſe to make Men pay it, but it was freely paid.

Sir *William Savill* being Interrogated, How many of them that ſet their hands to the Petition, did Vote againſt it?

Savill a Witneſs.

He Anſwered, That there were of them that ſet their hands to the Petition 10, who did Vote the retraction of it, and he named Sir *Francis Wortely*, Sir *Thomas Danby*, Sir *George Wentworth* of *Wolley* (as he thinks) and Sir *Edward Rhodes*.

Sir *Edward Rhodes* Interrogated, Whether the Country did intruſt my Lord of *Strafford*, to deliver a Meſſage to His Majeſty, declaring their conſent to a months pay, *&c.*

Rhodes a Witneſs.

He Anſwered, That after a long debate, Whether the Petition ſhould be preſented or no? It was by plurality of Voices, declined and waved; and, it was moved to my Lord, that he ſhould preſent the Requeſts of the Gentlemen then met, or the plurality of them to His Majeſty to this purpoſe, That having demanded two months pay, the Gentlemen of the Country made that requeſt to my Lord, humbly to beſeech His Majeſty to accept of one months pay, which his Lordſhip did, and His Majeſty was graciouſly pleaſed to accept of it, having formerly given them encouragement for the abatement of 4000 Men of the Trained-Bands after thoſe Troubles were paſt; and, if any Gentleman ſuffered in that Service, there ſhould be no benefit taken of his wardſhip, and when my *Lord* preſented the deſire of the Gentlemen to His Majeſty, He was pleaſed, inſtead of taking off 4000, to promiſe to reduce the Trained-Bands to 6000.

Being Asked, What number of Gentlemen were in the Hall? and, Whether that was not the place appointed for the County, to Conſult about the buſineſs?

He Anſwered, That he thinks that there was 300 at the leaſt, of the one and the other; and for the place and time, it was both the place and time, and that was an Exception my *Lord* of *Strafford* took, but he was not fairly dealt withal, that in regard His Majeſty gave Direction, that at ſuch a time, and ſuch a place, my *Lord* Preſident (by that name His Majeſty was pleaſed to call him) and the Gentlemen of the Country ſhould conſider the buſineſs; my Lord thought much a Petition ſhould be drawn without his Conſent, and that the buſineſs ſhould be concluded before the time, and from the place of Debate.

Being Asked, How many diſſented from this Court?

He Anſwered, He thinks not above 20, if there were ſo many.

Being

Article 27.

Being Asked, Whether divers that Signed the Petition, did not retract it? and, amongſt the reſt, himſelf?

He Anſwered, Divers did retract it; and, himſelf gave his Voice for the waving of it; but, he cannot ſay he retracted it, for his hand was not to the Petition.

Being Asked, Whether my Lord of *Strafford* had not Commiſſion from the County, to offer a full months pay to the Trained-Bands?

He Anſwered, It was the deſire of the Country, That his Lordſhip would be pleaſed to entreat His Majeſty, to accept of a months pay, being deſired by the King.

Being Asked, Whether they were not willing to pay it in that part of the Country, where he lives?

He Anſwered, That where he ſerved as Deputy-Lieutenant, he knows not of one Man that complained, or ſhew'd unwillingneſs, or any difference, but only in the proportion between Man and Man.

Being Asked, Whether my Lord of *Strafford* did not faithfully relate the Meſſage to the King, according to the Commiſſion of the Country gave him?

He Anſwered, That he conceives he did it moſt faithfully, and with great Advantage to the Country.

Sir *Tho. Danby* being Interrogated to the matter of the Petition, and the declining of it; the conſenting of a months pay; the chearfulneſs in paying of it?

Danby witneſs.

He Anſwered,

That the Petition was delivered.
That the Money was paid with a great deal of chearfulneſs.
That they were content to come to a Months pay.

That he heard of no Man that declared to deny it.

Being Asked (on Mr. *Maynard's* motion) Whether any other direction was given for the Meſſage, beſides the Petition, the laſt Clauſe excepted?

He Anſwered, That one taken off, my Lord was to deliver the ſubſtance of the Petition.

Being Asked (on Mr. *Maynard's* motion) Whether there were not two Trained-Soldiers hang'd up for mutining for want of Pay?

Mr. *Maynard.*

Mr. *Maynard* thence obſerving, That if they had been well paid, there had been no want of it.

He

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He Anſwered, That he cannot Anſwer to that without ſome prejudice to himſelf; he being queſtion'd for hanging men by Martial-Law.

Sir *George Wentworth* of *Wolley* being Interrogated, Whether he was not preſent at the Hall, where the Petition was ſpoke of? and, Whether a months Pay was not conſented to?

Wentworth a witneſs.

He Anſwered, He was preſent, and the Petition was declined by the major number; there was a great number in the Hall, and my Lord delivered it accordingly to the King. He was preſent when he preſented all the Grievances expreſt in the Petition, and left out only that part concerning the Parliament.

Being Asked, Whether my *Lord of Strafford* had Authority to acquaint the King, There ſhould be a months Pay?

He Anſwered, Yes: And, the place of Debating was the Common-Hall; and, divers that Signed the former Petition, did retract it, and himſelf was one of them.

Being Asked, Whether the money was not paid willingly by every Man, without force and conſtraint?

He Anſwered, That he was a Collonel, and it was paid him very well.

E. of *Strafford.*

The next thing my *Lord* of *Strafford* obſerved, was, concerning a Warrant alleadged to be given out by him, for levying of a Fornights Pay to the Two Regiments of Sir *William Pennyman*, and Sir *Tho. Danby*. If in any thing in his Anſwer he be miſtaken, he had rather ſubmit it than diſpute it; and, if it pleaſe their Lordſhips to favour him ſo far, he will, as near as he can, tell every thing that paſſed; and, he hopes, divers of their Lordſhips will remember a great part of it.

It is very true, before this month was ended, (he is ſure within it) the King Licenſed all the Trained-Bands to go home again, ſave the Two Regiments, one for *Richmondſhire*, and the other for *Cleveland*, which, by His Majeſty's expreſs Command, and Council of War, were required, one to remain at *Yaram*, the other in *Richmondſhire*, to preſerve them from thoſe of the other ſide.

Sir *William Pennyman* and ſome others finding, that by this means theſe Regiments continuing in Pay, fell to be grievous to that part of the Hundred; Thoſe Two Hundreds, or Weapontakes acquainted him (the Earl of *Strafford*) with it, out of no particular end in the World, but that with Equality and Juſtice in that common Misfortune, they might all bear the Common Burden.

Divers of their *Lordſhips* being there at *Rippon*, he did humbly preſent to the King, before the Great Council of my *Lords* at *York*, That he conceived if the whole Charge of thoſe Two Regiments ſhould lie on thoſe Two Hundreds, it would impoveriſh and undoe them; and therefore he conceived it Juſtice and Reaſon, that the reſt of the County ſhould contribute towards the Charge (the benefit being common to all) or elſe they

ſhould

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ſhould ſucceſſively relieve thoſe Regiments, that the burden of all might lie equal on all.

This was his intention, and he hopes it was fair, and if not as it ought to be, yet it was done with a very good heart, and juſtly intended: This he moving at that time, His Majeſty was pleaſed to aſſent to it, and lik'd it very well, and gave direction he ſhould proceed; whereupon he ſaid, Then if my Lords approve of it, he ſhall ſee it done accordingly. There were divers of the Lords then ſaid, yes; and thereupon he took it for granted, that it was their Conſent.

If in this he did miſtake, of their Lordſhips, he humbly craves their pardon, it being far from him to prejudice any Man living in that relation, and, that it was ſo, he thinks a Noble Peer, then preſent, (*viz.* my Lord of St. *Albanes*) will remember, that divers on the motion did ſay, yes; and thereupon he took it to be a thing granted.

And, that as my Lord of St. *Albanes*, who being gone home indiſpoſed in his health, my Lord of *Strafford* deſired he might reſerve himſelf the benefit of his Examination, if he ſhall ſee cauſe, though he hopes there will be no need of it.

After this, he underſtanding that ſome of their Lordſhips at *Rippon* were not ſatisfied, becauſe the Great Council was named for the Author of the Warrant; the very laſt day the Great Council ſate at *York* (their Lordſhips being then come back from *Rippon*) he moved it to the King, and gave the ſame Relation there, that he makes here before their Lordſhips, deſiring to know their pleaſure, Whether the Warrant ſhould be recalled or no? for he could then eaſily do it: Nothing being done upon it. Under favour, ſome of their Lordſhips ſaid, The Great Council had no Power to levy money; To which he Anſwered, That the Warrant was not to levy money, but that the parties concerned ſhould do their Duties themſelves, or otherwiſe pay the money. At that time it pleaſed His Majeſty to Command him to go on; and, after the King had ſpoken, no Man ſpake to the contrary, and ſo the Warrant was not recalled; but, the moneys was paid voluntarily, no force or conſtraint being put upon any, but they took it as a great benefit that they had that favour, as for his part he conceived it was: And, all himſelf got by it, was, That by this means himſelf, and all his Tenants, and thoſe that had relation to him, came to pay their proportionable ſhares, which otherwiſe ſhould not have paid a Farthing, (for they were at a great diſtance in the *Weſt-riding*) and they paid it voluntarily, and willingly; and, when he ſpake to the Deputy-Lieutenants, they all conceived it a benefit, and advantage to the Country; and it was done with their Conſent, and a great Eaſe, and a Burden to no Man.

So he acknowledges ſuch a Warrant was granted, but nothing of force or conſtraint.

Strickland a Witneſs.

Mr. *Ro. Strickland* Interrogated, Whether he conceived not this a great eaſe to the Country, thus to lay the laſt Fortnights Pay for the Two Regiments? And ſtood with his Advice, and the Advice of his Lieutenants?

He Anſwered, That it was very well paid, for any thing he knows, but the moſt part of it, if it was paid, was paid after he came to *London*. But, he conceives, that if thoſe Regiments muſt ſtand, or the orher March up to their Relief, it was for the eaſe of the

the Country, and ſo he conceived then, otherwiſe he ſhould not have ſubſcribed the Warrant: and, it had laid heavy on thoſe Diviſions, where the two Regiments of Sir *William Pennyman*, and Sir *Thomas Danby* lay, who had been undone by it; It was done meerly for their Relief, without any ill intent whatſoever. *Article* 27.

Sir *Edward Osborne* Interrogated, What he thinks of the Courſe? and, Whether he conſented not to it, at a very great Advantage? *Edw. Osborne.*

He anſwered, The Queſtion being propounded by my Lord-Lieutenant to the Deputy-Lieutenants, Whether two Regiments that lived on the place, the Frontier of the *North-Riding*, ſhould be paid by the Countries Contributing, or their Charge, or the Country to ſend their Regiments for Relief of theſe two; they conceived it was a mighty eaſe and benefit to the Country to pay the two Regiments, and the reſt of the Trained-Bands continue; For, ſome of them muſt march Seventy miles in way, and Seventy miles backwards, and, ſome of them that lay there, never ſtirred out of their own Towns: and therefore they were of opinion, It was a marvellous eaſe.

Being asked, Whether this Fortnights Pay was voluntarily paid in the Parts where he lived? and, Whether Force was uſed?

He anſwered, He lived at *York* altogether, and cannot tell: But, ſome Officers asking, What they ſhould do for the Moneys that are behind for Relief of the two Regiments? my Lord anſwered, That which will be willingly and freely paid, you muſt take it; that which will not, you muſt let it alone: and, this was four or five days before my Lord of *Strafford* came from *York*.

Sir *William Pennyman* being Interrogated, touching the Convenience and Eaſe of this Courſe? *Will. Pennym. kn.*

He anſwered, That he conceives it very eaſie and advantagious, for elſe ſome of the Regiments muſt have marched 70 miles, and it would have taken up a great part of the Charge, in the very March.

My Lord of *Strafford* added, That he would prove it by all the Deputy Lieutenants that were there, that no Force or Conſtraint was put upon any man by him, nor is there any proofs to prove Force: There be only two things inſiſted on; One is the Warrant of Sir *Edward Osborne*, that they ſhould pay Money on peril of their Lives; He denies that he ſigned any ſuch Warrant; and, he is ſure there is none under his hand: If they have it to ſhow, he deſires they would ſhew it; if they do not, then their Lordſhips Judgments will acquit him of it. The other is Sergeant-Major *Towards* Warrant, and a fellow that tells a Tale of Muſquetiers, and ſays, there was a Warrant of his; But, he ſays, he made no ſuch Warrant; he gave no direction for it; neither is there any ſuch Warrant ſhown; and, he truſts, that will acquit him of that too: And, if there be any thing of Crime in the Buſineſs, it muſt be, that they have been conſtrained *E. of Strafford.*

Article 27. by force, to pay the moneys; for, if it be voluntarily offered to take or leave, this can be no Crime; and, that there was any force, or any Warrant iſſued by him, he denies: And, by this time, he thinks he hath cleared himſelf againſt all the matters charged in this Article.

But, he conceives, he hath done nothing, but that he had Commiſſion and Power to do, though he never had acquainted the Great Council with it under favour: It is true, he was always deſirous, to have the aſſiſtance of Men wiſer than himſelf; and, when there was means or opportunity to gain it, he took it: But, if he had been in *Yorkſhire* all alone, having the Power and Commiſſion he then had (though his Majeſty and their Lordſhips had not been there) he conceives he might have juſtified the doing of as much, as he hath done in this Parliament; his Commiſſion under the Seal of my Lord Admiral being in effect,

> FOR *the better Execution of this our Commiſſion, we do further give and grant to you full Power and Authority, from time to time, and at all times at your diſcretion, to command, and require of and from all our Lieutenants, and Deputy-Lieutenants in our ſeveral Counties of this our Realm and Dominion of* Wales, *and of and from every, or any of them, to ſend to you, or ſuch place as you ſhall appoint, ſuch number of able men for the War, as well Horſemen as Footmen, in the ſaid Counties reſpectively, or otherwiſe, ſufficiently Armed and Furniſhed, as you in your diſcretion ſhall appoint and require.*

And, he did not ſend them to pay any money, but to relieve by turns, Regiment after Regiment; and, if they found it for their eaſe, they might be at the Charge, elſe do the Duty required, which, by the Common Allegiance, every man is bound to do. Say then he had committed an Error, he had rather confeſs than juſtifie it, as long as it is not brought to him as a Crime.

But there is another Clauſe, according to the Statute of 11 *H.* 7. *viz.*

> AND *further, our pleaſure is, and we do give and grant for us, our heirs and ſucceſſors, that whatſoever you, or any other perſon or perſons of what degree ſoever, by your Commiſſion, Warrant, or Command ſhall do, by virtue of this our Commiſſion, or Letters Patents, or according to the Inſtructions aforeſaid, or the purport of this our Commiſſion, touching the Execution of the Premiſes, both you, and the ſaid Perſons, in ſhewing forth theſe our Letters-Patents, or the Conſtat, or Inrollment thereof, ſhall be diſcharged and acquitted againſt us, our heirs and ſucceſſors, and freed from all Impeachment, and other moleſtation for the ſame.*

He did this without ſiniſter ends, or by-reſpects; and therefore if he did any way err, by his Majeſties own gracious Clauſe, he is to be excuſed; And, it is purſuing to the Statute of 11 *H.* 7. *c.* 1. where the Preamble is very obſervable.

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THE *King our Soveraign Lord, recalling to his remembrance the Duty and Allegiance of His Subjects, and that they, by reaſon of the ſame, are bound to ſerve the King for the time to come in His Wars, againſt every Rebellion, and Power, and Might, &c. and whatſoever falls againſt the mind of the Prince; and, that it is againſt all Law, Reaſon and Conſcience, that attending His Perſon, or being in other places of his Command, any ſhould loſe or forfeit for doing their true Service and Obedience, Be it therefore Enacted, &c. That from henceforth, no manner of Perſon or Perſons whatſoever, that attends the King in his Perſon, and do Him true Allegiance in His Perſon, or be in other Places in His Wars, for the ſaid Deed, or true Duty, he and they ſhall be any way convicted, and attainted of Treaſon, nor of any other Offence by any Proceſs of Law, whereby he ſhall forfeit Lands, Goods, Tenements, &c. and ſhall be for that Deed and Service utterly diſcharged of any Vexation, &c.*

So that he conceives he hath done nothing, but what may receive a fair and equal interpretation; what he hath done, he hath done very candidly, and clearly, for the good of his Maſter's ſervice, and preſervation of the Country; and he hath done nothing violently, or deliberately, to force men to do things, that may any way trench on the Propriety or Liberty of the Subject: and, whatſoever evil he may have committed in this, he hopes, by the Act of Parliament, and by the words of the Commiſſion read, he ſhall ſtand before their Lordſhips (in point of Juſtice, and Noble Compaſſion to a Man that may err) Acquitted from any part of that Charge, that may accuſe him of High Treaſon.

Only one thing he hath omitted, and that is the Teſtimony of Sir *William Ingram*, where he charges me with ſaying, *The Refuſers to pay the money, are in little better condition, than guilty of High Treaſon.* But he is a ſingle Teſtimony; and he ſays, That clearly underfavour it is no mean offence for any man, to deny the Common Allegiance due to the King, for defence of his Wars: But, the words are teſtified to be ſpoken only to one man, and he is not accomptable to him, nor to their Lordſhips, for that, he being but a ſingle Teſtimony.

Mr. *Maynard* began to Reply to the ſaid Defence in ſubſtance, as followeth.

Mr. *Maynard.*

That whereas my Lord ſays, they have urged much that, which was not charged; his Lordſhip hath anſwered, that which was not Objected as a Charge: for, the greateſt part of the time he hath ſpent in examining ſo many Witneſſes, is, to ſhew on what grounds the firſt Petition was deſerted, and a Meſſage put on his Lordſhip to deliver to the King: The Petition was not offered to him as a matter of Charge, but it is charged upon him, that he procured to levy and impole Money upon the Country by force, without a legal Warrant, and, by way of excuſe, in his Anſwer, he ſets forth, that the Country did yield to it by their Unanimous Conſent. To that purpoſe it was objected to him, Not that the delivery of the Meſſage was a Crime (and therefore he might have ſpared this labour to Anſwer it, as to that purpoſe.)

Article 27. But, as himſelf ſtates the Caſes, he hath much encreaſed, rather then diminiſhed his Fault; for, he ſaid, There was a Conſent; yet, it appears, there were but 109 principal Gentlemen parties in the firſt Petition, and he encounters thoſe to 200 met together; the greater part of whom conſenting, and 100 of them that had ſubſcribed, and about 5 diſſenting, they reſolve of a Meſſage to be delivered touching conſent; But, they have proved, not only a Levy for the firſt Month, but much more; though when the Gentry met together, and conſented to a Petition, it is no deſertion of that Petition, becauſe 10 of 109 deſerted, eſpecially when they had a Meſſage from my Lord to meet about it, and, relying upon it, went into the Country: beſides, 200 Gentlemen Freeholders, and others, could not lay a Charge on the reſt of the Country, nor bind them that had diſſented before, and whoſe conſent was not involved; and, it is no legal way to raiſe Money by Warrant, much leſs by Force.

For the Money levied after the Month expired, my Lord hath offered no Colour to their Lordſhips; for firſt, the ground whereupon he raiſed it, was contrary to that which was the truth, *viz.* the Conſent of the Lords of the Great Council; whereas it appear'd, and ſhall appear further, there was no ſuch Conſent.

My Lord of *Strafford* would next juſtifie it by a Commiſſion, but that doth only require People, according to their Allegiance, to give attendance; and, this is turned into a matter of laying of Money: for, the firſt point of the Warrant is, to pay the Money aſſeſſed, and, if they will not, they ſhall attend, ſo that what is matter of Service is turned out of its Courſe, and this is a high abuſe of his Power, which makes the matter of Money, which ſhould be matter of Service; and, by this means, awes men to pay money.

The Country, on demand of His Majeſty, did conſent to a Months pay, but, my Lord, without their conſet, extends it beyond; and pretends an Order (to ſay no more of it) when there was no ſuch thing, to draw ſome Deputy-Lieutenants together, and, when they are drawn, to make an Order, this muſt be his Juſtification of that which is unduly done: And this is far from the mitigation of an Offence. To do an unjuſt Act is one thing, but it is a great aggravation when it is drawn by pretence of an authority which never was.

On 27 *October*, the ſelf ſame day Sir *John Burroughs* ſpake of notice taken by their Lordſhips, diſclaiming the Order for a Warrant; And then my Lord acknowledged it to be an Error; and, it is doubtful, whether he would have acknowledged it to be ſo, if it had not been proved ſo.

My Lords Commiſſioners ſpeaks not of Money, and the Statute makes not to this Caſe, it being only, That when men are on their Allegiance, doing the King faithful Service, they ſhould not be attainted of High-Treaſon for doing their duty; And the Interpretation his Lordſhip puts on it, is, that the duty of the Subject cannot be done to the King, without levying Money in an unlawful way; if the levying of Money, or the impoſing of Charges be matter of duty, then he gives a Juſtification of the Charge: And, whereas he ſays, tho' he had not had command from his Majeſty, nor order from the Council of Peers, he had power enough to do that which he did; it is to be obſerved, that my Lord did not require men firſt to ſerve, but firſt to pay money; and if they paid not, then he menaces them, that they ſhould ſerve, as appears by Sir *William Pennyman*'s Warrant, and therefore the Warrant might be obſerved, which Sir *William Pennyman* juſtifies

ſo

ſo unwillingly, though in other things he be very forward; and for a man to be required to pay money, and if he will not pay it, then to perform Service, is hard; for now he comes not on the King's Service, but on the diſpleaſure of them that require Money from him, and that's a bad diſcouragement to them that ſerve. *Article 27.*

And whereas my Lord ſays, Nothing is proved, or but by ſingle proof, their Lordſhips may be pleaſed to remember, what is proved by Sir *Henry Griffin*, That my Lord ſaid, that Money ſhould be levied, and he would take a courſe for it; and the ſame Gentleman depoſes, That the Warrant or Order was under my Lord of *Strafford*'s hand, which was the Warrant for them to pay Money.

It is likewiſe proved by Sir *William Ingram*, That he ſaid the private men muſt maintain after 1 *d. per* day, and gave out his Command to the Conſtables, and he would have all men know, that thoſe that refuſed it, were in a little better condition than High-Treaſon, ſo that to the firſt part, there is more than a ſingle Teſtimony. The latter part ſhall be proved by another.

Mr. *Henry Cholmeley* being Interrogated, What he heard my Lord of *Strafford* ſpeak, concerning Treaſon, in caſe men pay not that money, or to that effect?

Cholmeley witneſs.

He anſwered, That he heard not any thing at all of Treaſon. Concerning the not payment; Anſwered, That at *York*, at the Mannor-houſe my Lord of *Strafford* ſpeaking of the raiſing of the Trained-Bands, ſaid, we are all by Law tied to ſerve the King in our own Perſons, and if any refuſe, they are in little better caſe, than Treaſon (he cannot tell whether he ſaid *High-Treaſon*) and they might be ſeverely puniſhed in the *Star-Chamber*.

And their Lordſhips may remember Mr. *Cholmeley*'s former Teſtimony, That the Vice-Preſident might, or ſhall ſend forth Warrants to levy Money; And therefore theſe Gentlemens Teſtimonies ſtand without impeachment of that point.

My Lord ſays, Moneys were not levied by force; yet it was proved, that for theſe two Regiments money was levied by force; for, four Soldiers came to the Town, and went with the Conſtables.

But, he ſays, it concerns not him, for no Warrant of his was ſhown. Their Lordſhips will not expect, that my Lord of *Strafford* ſhould give particular Warrants to every Officer; his Declaration is proved in general; his Commands are conveyed and diſtributed by particular Miniſters; The Captains look for Commands from them that are above them; and they from the Lieutenant-General: And, Sir *William Pennyman* conceives, the Warrant made out by the Vice-Preſident, was by a Warrant from my Lord of *Strafford*, or he had my Lord of *Strafford*'s Command. So that, take that which is under Hand and Seal; take what Sir *William Pennyman*, take what Mr. *Cholmeley* hath ſpoken, it cannot be otherwiſe, but it was done by my Lord of *Strafford*'s Command, and that is ſure without Legal Authority: and ſo M. *Maynard* conceived they had made a full proof of this Article.

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For that which concerns the Great Council, he desired my Lords Answer might be read; where he says expresly, It was done by order of the Lords of the Great Council; And, Mr. *Maynard* humbly prayed, that some of the Lords of the Great Council, might declare the Truth in that Case.

E. of *Strafford.* But, my Lord of *Strafford* answered, That he confessed it here at the Barr, that it is so; and, must humbly put their Lordships in mind, that in his Answer, he prays, if any thing be mistaken, he may have time to amend it; and he doth amend it, he confesses it was put in too strongly.

Mr. *Glyn.* Mr. *Glyn* added, That they put their Lordships in mind of it, that it may not be forgotten; After his Lordship was put in mind of it by the Lords of the Great Council, he retracts it; yet when he comes to answer, he affirms it; therefore they think it necessary, to put their Lordships in mind of it, least he affirm it again.

Mr. *Whitlock.* Mr. *Whitlock* observed, That my Lord of *Strafford* had made Justification of his Act here; and truly, the Opinions which he hath here published and declared in the face of the Parliament, are sufficient grounds of Condemnation of him.

He said, the other day, That in case of necessity, the King was loose and absolved, from all Rules of Government; and that then money might be levied by force; and, that their Lordships very well remembers what that necessity was, indeed no necessity at all. But, whatsoever the necessity is, they know no such Tenent as my Lord of *Strafford* publishes: But, it is expresly against the Fundamental Laws of the Kingdom, and a meer Course for his bringing in an Arbitrary Power.

His Lordship said, That as he stood qualified, he might justifie as much as he hath done; Which words are little less than the offence wherewith he is charged, and prove the Charge. For him to say, That as he was then qualified, because he was Lieutenant-General of the Army, he might send his Warrants to Tax the King's Subjects without Parliament, is, to take on him the Power of a Parliament; for, under favour, no such Tax can be made without assent in Parliament: So that what my Lord of *Strafford* hath declared as a ground of his Defence, is a good ground of his Condemnation.

E. of *Strafford.* My Lord of *Strafford* did here desire liberty to speak to the Testimony of Mr. *Cholmeley*, which is new matter; and, he besought their Lordships to observe, That he did not say, as Sir *William Ingram*, That the money should be paid, and he that paid not the money, should be in little better condition, then High Treason; But, he that denies his Allegiance to the King, to go with him in his Wars, in Defence of the Realm, is little better than guilty of Treason, or is Fineable in the *Star-Chamber*: But, because these are tender Points, and he little understands them, and they take hold of all that falls from him, he shall say no more, but that the Testimony of the one and the other, are two several things.

And, his Lordship proceeded to speak something touching Sir *William Ingram*'s Testimony, which Mr. *Glyn* interposed, and said, That's no new matter,

matter, but it only ariſes out of his Anſwer, and therefore he deſired no more might be ſaid to that. *Article* 27.

He proceeded to other matters contained in the Reply, and offered to their Lordſhips, That it had been ſaid, he did publickly juſtifie at the Barr; that he had power to lay Taxes, and to force payment; but he ſaid, under favour, no ſuch thing; but that he having the King's Commiſſion and Power to call in ſuch, as he ſhould think fit to ſerve the King, for defence of the Realm, and this being purſuant to the Act of Parliament of 11 *H.* 7. he ſaid, he might juſtifie (as he conceives) the calling of the Regiments to relieve by turns one another, as there ſhould be occaſion; but to ſay, he had power to Tax what he pleaſed, God forbid, he ſhould ſay or think ſuch a thing. He is not the wiſeſt man in the world, yet not ſo ignorant, but to know that the one were a great breach, on the fundamental propriety and liberty of the Subject; but to call men to perform their Duty for preſervation of the King and Kingdom, he conceives to be a quite different thing.

His Lordſhip proceeded to ſpeak to ſome part of the Reply, concerning his ſending forth of Warrants to levy by force.

Which being excepted againſt, as new matter my Lord of *Strafford* anſwer'd,

That if he ſpeaks new matter, it is ſufficient puniſhment to him.

My Lord of *Strafford* proceeded, That he is charged to be the procurer of Sir *William Pennyman*'s ſending a Warrant to levy by force, whereas, he ſaid, the Warrant was iſſued by him and the Deputy-Lieutenants.

But that being denied, and apprehended to be new matter.

Mr. *Whitlock* deſired to Reply to my Lord of *Strafford*'s Anſwer, to what he had formerly opened, wherein he conceived he was not miſtaken, but if he were, he ſubmitted, but he opened it thus. That as my Lord of *Strafford* with the Power and Commiſſion he had, he ſaid, he might juſtifie what he had done, and it proved that he ſent Warrants to levy money, and theſe moneys were levied by force. Mr. *Whitlock*.

Mr. *Maynard* added, That they are here for the King and Commonwealth, and deſired, that Right might be ſpared them, and that there might not be continual Replies: That no colour of Anſwer is given; that becauſe a man muſt ſerve in perſon, therefore money muſt be required of him, elſe he muſt be brought by Head and Shoulders to ſerve in perſon. They offered a Warrant made upon peril of Life, under the Hand and Seal of Sir *Edward Osborne*. Mr. *Maynard*.

Whence Mr. *Maynard* obſerved, That there is Impriſonment; Levying of Money; charging upon pain of Life; levying of Goods: nothing can be put upon the Subject, but it hath been offered in this Caſe.

Mr. *Glyn* Summ'd up their Proofs, ſaying, Since my Lord of *Strafford* will have another Rely, they have produced their Proofs, That he hath levied War againſt the King's Subjects, and did before declare Mr. *Glyn*.

an

Article 27. an intention to levy Money, which was afterwards done by his direction.

Sir *William Pennyman* proves, that Warrants were iſſued, and in ſuch ſort as mentions a coertion; They have in purſuance proved it to be levied by four Muſquetiers, if he gave direction, another gave execution, and the parties Body muſt be carried away, if he pays not; which is a levying of War againſt the King's Subjects: and *Gogan* 5 *R.*2. was accuſed of Treaſon, for forcing a man to enter into Bond, which is not ſo much as to force thoſe payments on the King's Subjects.

They produced Sir *Edward Osborne*'s Warrant atteſted by Mr. *Cholmeley* to be the Original Warrant that he had from Mr. Vice-Preſident, to ſend for the levying of the Money.

To the, &c.

WHereas His Majeſty is informed, that the Regiment under Command of Col. Cholmeley *is ſet forth with little money, which expreſſes great diſaffection to his Majeſties ſervice, and wilful neglect of your own, and the whole Kingdoms ſafety; the Scotch Army having taken* Newcaſtle, *and being on their march towards theſe parts: Theſe are therefore to will and require you in his Majeſties Name, and by his ſpecial Command, to raiſe, and cauſe to be raiſed by the Port Conſtable, or otherwiſe as you ſhall think beſt, the ſum of* 20 s. 8 d. *at leaſt for each common Soldiers, belonging to ſuch Towns or Pariſhes, and to ſend the ſame immediately to* York *to be delivered to the Colonel, for Pay and Supply of the ſaid Soldiers, and likewiſe to charge and command all and every perſon and perſons, who find private Arms, or contribute thereunto, forthwith to ſend the like ſum at leaſt to* York, *to be diſpoſed as aforeſaid; And in caſe any of them refuſe to contribute, you are required by like Command, to certifie me the Names of ſuch Refuſers, that a Meſſenger may be ſent to bring them hither to ſerve in perſon, and be ſeverely puniſhed, accordingly to the quality of ſo high an offence, ſeeing the ſafety of his Majeſties Perſon, and the ſafety of the Kingdom depends on this; Fail not in the ſpeedy execution thereof, as you will anſwer to the contrary, on peril of your life. Dated the laſt of* Auguſt 1640.

Mr. *Maynard.* Mr. *Maynard* deſired their Lordſhips to obſerve the former Depoſition that my Lord of *Strafford* ſhould ſay, The Vice-Preſident ſhall, or may ſend forth Warrants, and it is originally my Lord of *Strafford*'s fault.

And ſo they concluded the 27th Article.

Mr. *Glyn.* Mr. *Glyn* did offer to their Lordſhips, that there is the 28*th Article* remaining, wherein, whether ſhall proceed or no, they have not yet reſolved.

But they deſired another day to be heard, they having ſomething more to ſay.

And ſo the Court was Adjourned, and the next day was appinted, at Eight of the Clock.

April

A SUMMARY TO THE EVIDENCE Of my Lord of STRAFFORD.

April 12.

THis Day being appointed, for the Summing up of the Evidence formerly given on both Sides, in the Cauſe concerning my Lord of *Strafford*; The Right Honourable the Lord Steward ſpake in ſubſtance as followeth.

My Lord of Strafford, *I am Commanded by my Lords to let you know, that they do expect your Lordſhip will go on in the Order ſet, to ſum up your Lordſhips Evidence; and, thoſe Gentlemen of the Houſe of Commons will likewiſe ſum up theirs, for the Cloſe of Proofs in Matter of Fact; and, that your Lordſhip do it with all Clearneſs and Succintneſs, avoiding any thing that may give Impediment, to the Clear and Fair Proceeding of the Cauſe, which, for matter of Fact, is come to a Period.*

My Lord of *Strafford* humbly deſired, That he might clearly underſtand what was expected in that Caſe, and then he would perfectly obey my Lords in all things; adding, that he conceives their Lordſhips Intention is, that they ſhall go upon what hath been alleadged before their Lordſhips, without any new Matter to be further alleadged on either ſide.

Whereunto my *Lord Steward* replyed, *That if there be any new matter, God forbid but they might alledge it.*

And, my *Lord Strafford* thereupon Anſwered, That he will offer no new Matter, unleſs it ſhould ariſe from the other ſide; profeſſing himſelf ready to be diſpoſed of, in all Acts of Obedience to their *Lordſhips*. And then his *Lordſhip* proceeded to recollect his Evidence in ſubſtance, as followeth.

May it pleaſe your *Lordſhips*, it falls to my turn, by your *Lordſhips* leave and favour, to preſume to put you in mind, and to repreſent to you, the Proofs, as they have been offered, which I ſhall do to the beſt of my Memory, with a great deal of Clearneſs. I ſhall deſire to repreſent them neither better nor worſe, then they are in themſelves, and, I wiſh, the like Rule may be obſerved on the other ſide; For, in the proceeding of this Cauſe, I heard them alleadge, that, as they conceived, divers Articles were fully proved; Whence I conceive, there was nothing fully Proved.

My Lords, my Memory is weak, my Health hath been impaired, and I have not had ſuch quiet Thoughts, as I deſired to have had, in a buſineſs of ſo great and weighty importance to me: And therefore I ſhall moſt humbly beſeech your Lordſhips, that by your Wiſdom, your Juſtice and Goodneſs, I may be ſo much bound to you, as to have my Infirmities ſupplyed by your better Abilities, better Judgments, and better Memories.

My Lords, The Charge I am to Anſwer, is a Charge of High-Treaſon; and, that which makes it the moſt grievous of all, it is an Impeachment of Treaſon from the Honourable Houſe of Commons: Were not that in the Caſe, my Lords, it would not preſs ſo heavy and ſore upon me, as now it doth, having the Authority and Power of their Names upon it; Otherwiſe, my Lords, the Innocency and the Clearneſs of my own Heart from ſo Foul a Crime, is ſuch, that I muſt with Modeſty ſay, if I had no other Sin to anſwer for, it would be eaſily born.

My Lords, as I went along *Article* by *Article*, Theſe Gentlemen were pleaſed to ſay, They were no Treaſon in themſelves, but conducing to the Proof of Treaſon: and, moſt of the *Articles* being gone over, they come to the Point at laſt. And hence, my Lords, I have all along watched, to ſee if that I could find that Poyſoned Arrow, that ſhould Invenom all the reſt; that Deadly Cup of Wine, that ſhould Intoxicate a few aleadged Inconveniencies, and Miſdemeanors, to run them up to High-Treaſon.

My Lords, I confeſs it ſeems very ſtrange to me, that there being a ſpecial difference between Miſdemeanors, and between Felonies and Treaſons; How is it poſſible that ever Miſdemeanors ſhould make Felonies, or a hundred Felonies make a Treaſon? Or, that Miſdemeanors ſhould be made Acceſſaries to Treaſon, where there is not a Principal in the Caſe? No Treaſon, I hope, ſhall be found in me, nor in any thing I hear to be charged, under favour, and not waved.

They

They ſay well, That if a Man be taken threatning of a Man to kill him, conſpiring his Death, and with a bloody Knife in his Hand, theſe be great Arguments to convince a Man of murder. But then, under favour, the man muſt be *killed*; for, if the man be not killed, the murder is nothing. So, all theſe things that they would make conduce to Treaſon, unleſs ſomething be Treaſonable, under favour, they cannot be applyed to Treaſon.

My Lords, I have learnt that in this Caſe, which I did not know before, that there be Treaſons of two kinds; there be Statute-Treaſons, there be Treaſons at Common-*Law*, or Treaſons conſtructsve and Arbitrary.

My Lords, Theſe Conſtructive Treaſons have been ſtrangers in this Common-wealth a great while, and, I truſt, ſhall be ſtill, by your Lordſhips Wiſdom and Juſtice: But, as for Treaſons in the Statute, I do, with all gladneſs and humility acknowledge your *L*ordſhips to be my Judges, and none but you, under favour, can be my Judges: His Majeſty is above it, the King Condemns no Man: the great operation of his Scepter is Mercy; His Juſtice is diſpenſed by His Miniſtry; ſo He is no Judge in the Caſe (with Reverence be it ſpoken:) and likewiſe no Commoner can be Judge in the Caſe of Life and Death, under favour, in regard he is of another Body: So that, my Lords I do acknowledge entirely, you are my Judges, and do, with all chearfulneſs in the World, ſubmit my ſelf unto you; thinking, that I have great cauſe to give God thanks, that I have you for my Judges, and, God be praiſed it is ſo; and, Celebrated be the Wiſdom of our Anceſtors that have ſo ordained it.

My Lords, I ſhall obſerve theſe Rules; Firſt, I ſhall (as I hope) clear my ſelf of Statute Treaſon, and then ſhall come to Conſtructive Treaſon, or Treaſon at the Common-Law.

The firſt point they Charge me withal of Treaſon, is upon the Fifteenth *Article*; Wherein nevertheleſs, before I come to Anſwer the Particulars, I muſt humbly inform your Lordſhips, that, in that *Article*, two of the moſt material Charges are waved in the firſt part; that piece of the Charge that ſounds ſo high, concerning a miſcarriage in me, in levying money upon the Town of *Baltemore*, *Bandenbridge*, *Talow*, of that I hear nothing, and I ſhall mention it only thus far, humbly ro remember your Lordſhips, that, in that particular, I truſt I have ſpoken nothing, that I ſhould merit leſs belief of your *L*ordſhips: for my part, it is far from me, to put you upon any prejudice, by any means whatſoever; I look only to the preſerving of my ſelf, if it may be without prejudice and hurt to any living Soul.

Then they likewiſe wave another part of the Charge, and that is, that I ſhould by force of Arms, diſpoſſeſs divers Perſons in the Territory of *Idengh*; and well they may, for, in truth, there is nothing at all of it that I am to Anſwer, it being wholly done by the Order of *Chancery*, and I having no more to do with it, than any man that hears it: the *M*atter that ſtays with me in this *Article*, is, the alleadged Warrant to *Mr. Savill* Serjeant at Arms, and the Execution of it, for that I ſhall humbly beſeech your *L*ordſhips, I may mind you, with all humility, that that Warrant is not ſhewed; and, I do think, that my *L*ords the Judges do, in the Tryals before them, obſerve, that Deeds are to prove themſelves in ordinary Try-

als, betwixt men and men; Now, how much more in a Trial for *Life*, and, which is more than that (though my Misfortune will have me to own it) in the Trial of a Peer?

The Witneſſes, my Lords, ſay, They have ſeen ſuch a Warrant; but, no Witneſs ſays, he knows it, and will Swear it to be my Hand and Seal; or, that I ſet my Hand or Seal to it; for it may be Counterfeited, for any thing they know.

For, Mr. *Savill*, upon Oath, I thought (under favour) he ought not to be admitted againſt me; for, he Swears directly to juſtify himſelf: for if there be no ſuch Warrant, he is anſwerable for the Fact, not I. But, my Lords, admit there were ſuch a Warrant, I humbly conceive, I gave your Lordſhips a very clear and full Anſwer to it; I ſhewed you (and proved it, as I conceive) that the Seſſing of Soldiers hath been a Coercive means uſed in *Ireland* always, to enforce Obedience to the King's Authority; I proved it to have been uſed, to fetch in the King's Rents of all kinds, Contributions, Compoſitions, and Exchequer Rents; I proved it to have been uſed, to bring in Offenders and Rebels, and (as my Lord *Ranalagh* depoſes) for any Unjuſtifiable Act. Sir *Arthur Terringham*, for a ſmall Debt, which appears not to be the King's Debt; My Lords, nothing at all is proved againſt it, but Negatively, the Witneſſes ſay, they did not know ſuch a thing, they had not heard the like; and, I think, none of your Lordſhips had, before this Cauſe; and yet that thing might be too.

And, my Lords, I beſeech your Lordſhips, How ſhould it be not Treaſon to Aſſeſs Soldiers for the King's Debts, and yet the Aſſeſſing of Soldiers, on the Contempt of the King's Authority, ſhould be Treaſon? for certainly the King's Authority is of far more Dignity, and more reſpect is to be had to it, than the getting of a few poor Debts; and, why it ſhould be Treaſon in one Caſe, and not in another, methinks it is very ſtrange.

My Lords, in the next place, I conceive, that not in any Conſtruction this can be ſaid to be a Levying of War againſt the King and His People, being but the Imployment of two or three Soldiers, to procure Obedience to His Majeſty's Government: becauſe (as I conceive likewiſe) I had Commiſſion to make War as I ſaw Cauſe, for puniſhing the Rebels, and ſecuring the Publick Peace; and therefore, How can I be charged with that I have Power to do?

The worſt that can be made of it, is, an abſurd execution of a Power; but, to make it Treaſon, when I had Commiſſion and Liberty ſo to do, methinks that is very hard: And, it was no abſurd execution of a Power, under favour, neither, when I had the Precedent of all the former Deputies and Lieutenants in the Caſe.

My Lords, it was never Complained of all the while I was there, for ought appears to your Lordſhips; ſo, that it ſeems there was no great Innovation, nor Inconvenience, for, if there were, I ſhould have heard of it.

But, the Statute 11 *E.* 1. *cap.* 7. ſets a Penalty upon any Subject, that ſhall Aſſeſs without the Deputy's Authority. Now I do moſt humbly beſeech your Lordſhips, that you would be pleaſed to remember that, and let me know how it ſhould be but Penal in a Common Perſon to do it, and yet Treaſon in a Deputy?

My

My Lords, I ſhall likewiſe humbly mind your Lordſhips for the Statute, or rather two Statutes, as I take it, whereby I conceive this Statute that made a Treaſon in *Ireland* was repealed; But, howſoever, the practice in all time hath gone quite contrary to that Statute, and the beſt Interpretation of Law is the Practice of *Law*; and therefore the Practice having been otherwiſe, it is an Argument very ſtrong and prevalent, that the Deputy, as Chief Governor, was never intended to be Concluded within that Act, nor never to be brought in by General Words onely.

And, that this ſhould be a Levying of War againſt the King, within the Statute of 25 *E.* 3. in *England*, ſurely I conceive it cannot be; for, the Burning of Towns, the Taking of Forts, Killing and Slaying, that I conceive to be a levying of War; but, this is a ſtrange levying of War, with two or three Soldiers to reſt in peace and quietneſs, eating on Contemners only (and not Killing and Slaying) and all to procure Obedience to the King, not in Diſobedience to His Command. If to lie upon them and eat, be High-Treaſon, in this Caſe, What ſhall become of a great Company of Good-fellows, that at this time eat at the Charge of the Country?

No, my Lords; This, in the Caſe of a private Man, had been but a forcible Entry, or a Ryot at the moſt, if a Man had done the ſame thing Mr. *Savill* did of his own Authority, without the Deputy, it had been but a Force and Ryot; and, How ſhall this be in my Caſe High-Treaſon?

The next Charge, in that Caſe, is, concerning a Warrant to one *Piggot* another Serjeant at Arms, and the great and crying Miſcarriages and Miſimployments of ſuch a War; if there had been any, it was when I (as your Lordſhips may pleaſe to remember) was out of *Ireland*, and that was the Caſe of *Bern*, a very foul Miſdemeanor, as it proved. But, my Lords, I being out of the Kingdom, and no ſuch Warrant ſhown, I conceive I am abſolutely diſmiſſed as unto that, and have nothing to Anſwer for it: there was nothing done while I was in the Kingdom: there is no Warrant of mine ſhown: therefore, I conceive, I ſtand clear of that likewiſe.

But admit there were ſuch a Warrant, the Anſwer goes to that as to the reſt; and certainly, I hope, will fully acquit me of this Fifteenth Article, as Treaſon; and ſo I muſt, in humility, ſubmit to your *Lord*ſhips wiſer and better Judgments.

The next Statute Treaſon, is an Intendment, or Deſign, or what you will have it, for bringing over the *Iriſh* Army into this Kingdom, to reduce it, or to do I know not what, nor I think no body elſe, for there ſuch thing.

But, my Lords, for proof in this Caſe, you have two offered there, and no more, under favour, at all: the firſt proof is, the Fears and Doubts of my Lord *Ranalaugh*, that tells you, he fears ſuch a thing, and doubts ſuch a thing. My Lords, if Fears and Doubts may be ſufficient to Condemn me for Treaſon, By my Faith, I fear and doubt very much, theſe Fears and Doubts might Accuſe me, and Condemn me of Treaſon more than once a Year; But, my Lords, his Fears and Doubts he may keep to himſelf, I hope, they ſhall not be brought any way to the prejudice of me; I am, I thank God, both confident and knowing, there is no ſuch thing.

The next is the Teſtimony of Mr. Treaſurer *Vane*; and, the Words Mr. Treaſurer doth Witneſs againſt me in that particular, are, as I conceive, theſe

theſe; that I ſhould ſay to His Majeſty, in an Argument concerning an Offenſive or Defenſive War with *Scotland*; Your Majeſty hath tryed all ways, and are refuſed, and, in this extream neceſſity, for the ſafety of the Kingdom, and Your People, You may imploy the *Iriſh* Army to reduce this Kingdom.

My Lords, To this I ſay, that (under favour) Mr. Treaſurer was in this (methoughts) a little Dubious; he was ſomething doubtful; for, at the firſt, he told your Lordſhips, he would deal plainly and clearly with you; that he knew before whom he ſpoke: And then, my Lords, it was but to the beſt of his Remembrance, that theſe, and theſe Words were ſpoken. At the laſt, my Lords, being put to it more, he was pleaſed to ſay, that theſe were poſitively the words, or ſomething to that effect: So, my Lords, here is but a dubious uncertain Witneſs, under favour, and theſe Profeſſions of his ſpeaking clearly and plainly, and of his Conſideration before whom he was (which are ſomething unuſual Clauſes to Men, that come to Swear upon Oath) makes me conceive him ſomething Dubious in this Point.

Secondly, My Lords, he is a ſingle Witneſs, and not only ſo, but, under favour, diſavowed by all the reſt that were preſent at the Council; my Lord of *Northumberland* remembred no ſuch thing; my Lord Marqueſs of *Hamilton* remembred no ſuch thing; my Lord Treaſurer remembred no ſuch thing; my Lord *Cottington* is very well aſſured he ſaid no ſuch thing for if he had he ſhould have taken offence at it himſelf, which he never did.

My Lords, in the *Third* place, He is pleaſed to mention, That it was in a Debate, Whether an Offenſive or Defenſive War? And, that then I ſhould ſay, The King had an Army in *Ireland*, &c. My Lords, It falls out in time, to be as I conceive, to be about the 5*th* of *May* laſt, not many days ſooner or later, the Army of *Ireland* was not raiſed till *June* following. So it ſeems, I ſhould tell the King a great untruth; that he had an Army in *Ireland*, which he might imploy for His Service, before that Army was raiſed; for, it is a notorious thing, and any of that Country knows, that the Army was not raiſed till *June*, as I remember.

Laſtly, In farther taking away of this Teſtimony, I have proved it, by a great many Witneſſes, beyond all exception, that there was never any ſuch intendment of the bringing this Army into *England*; nay, that the Deſign was quite otherwiſe; and this hath been apparently cleared before your Lordſhips, By the Teſtimonies of my Lord of *Northumberland*, Marqueſs of *Hamilton*, Sir *Thomas Lucas*, and Mr. *Slingsby*; And might have been further juſtify'd, by the Teſtimony of my Lord of *Ormond* Preſident of *Munſter*, and Sir *John Burlace*, Maſter of the Ordnance in *Ireland*, if they had been here to have been produced: ſo that all theſe laid together, the ſtrong and clear proof on my part, the producing of a ſingle Witneſs which, by the Proviſo of 1 *Edw.* 6. cannot riſe in Judgment againſt any Man for High-Treaſon. I truſt, all theſe laid together, I ſhall appear to your Lordſhips clear and free from theſe two Points, whereupon they enforce me to be within the compaſs of Treaſon by the Statute alleadged.

The

The *Third* Treaſon that is laid to my Charge, is upon the 27*th Article*, where Four Muſquetiers being ſent to *Egton*, by Serjeant Major *Yaworth*, to call for their Eight pence a day, is preſt upon me, as a levying of War upon the King and His People, and to be High-Treaſon upon the Statute of 25 *E.* 3.

Theſe be wonderful Wars, if we have no greater Wars then ſuch, as four Men are able to raiſe, by the Grace of God we ſhall not ſleep very unquietly. But, How do they prove this to be done by me? they produce to your Lordſhips the Warrant of Sir *William Pennyman*; but, had no Warrant at all of mine to ſhew.

Sir *William Pennyman* doth not alleadge any Warrant of mine to that purpoſe; he ſpeaks of a General Warrant, wherein I and the Deputy-Lieutenants join, for the paying of the Fortnights Pay, as they call it, and that is very true; but, that I ſhould give Warrant to levy by Soldiers, no ſuch thing is proved; no ſuch thing is ſhewed; no ſuch thing is alleadged by Sir *William Pennyman*, that beſt knew it; and, ſhould do it in his own juſtification, if there were ſuch a thing: but, on the other ſide, I muſt humbly beſeech your Lordſhips, to mind you what a clear and full proof I made thereof to you, till you were weary, though, I think, I could have continued it a Year longer if need had been, that there was nothing done by me in the levying of the firſt Months Pay, or the ſecond Fortnights Pay, but with full conſent of the Country, nothing being of Conſtraint, nothing being of Force put upon them.

The Second Point was a Warrant ſhewed to your Lordſhips, or at leaſt pretended from Sir *Edward Oſborne* the Vice-Preſident, wherein he charges them to obey and purſue the ſubſtance and direction of his Warrant, on pain of Death, and this muſt likewiſe be laid to me: My Lords, I confeſs I have Faults enough, more than a good many, though I truſt neither ſo crying, nor grievous, as ſome would pretend them to be; but, Faults I have, more than too many, I need not take nor add to my ſelf other mens; but whether this be a Fault or no, I cannot undertake to Judg. But certainly, I am in no Fault: for, I was at ——— when this Warrant iſſued from *Mr.* Vice-Preſident; and, I dare ſay, he is a Gentleman ſo worthy and noble, and ſo great a lover of Truth, that let him be examined upon Oath, if he ſhall not abſolutely clear me from Privity or Direction of it, I ſo much rely on him, that I will be thought Guilty before your Lordſhips for this Charge: Now, my Lords having gone over all that firſt part, which I thought fit to apply my ſelf to, and that is Statute-Treaſon, There is no Statute-Treaſons in the whole Charge, nor colour or pretence thereof, ſave only that of *Newcaſtle* which was waved.

In theſe, my Lords, I hope I am clear before your Lordſhips; and, ſure I am, they give me little diſquiet, for, in good faith, I am clear in my own poor Judgment.

Then comes in the Second Condition of Treaſon in the Charge, and that is Conſtructive-Treaſon; and, it is laid down in the firſt *Article* of the General Charge.

For, my Lords, I muſt tell you, the firſt Articles exhibited, are Grounds and Foundations whereupon the reſt are gathered, and to which they reſort and apply themſelves ſeverally.

I do conceive my ſelf, in a manner, by themſelves, clear of ſeven of theſe, for, they have in a manner, relinquiſhed five of them; So that the Firſt Article is the main Article whereupon I muſt be touched, and that is laid in the Charge thus. That I have Trayterouſly endeavoured, to ſubvert the

Fundamental Laws and Government of the Realms of *England* and *Ireland*; and have, by Trayterous Words, Councils and Actions, declared the ſame; aud have adviſed His *Majeſty* to Compel His Subjects, to ſubmit thereunto by force.

My Lords, I muſt confeſs I have many times with my ſelf conſidered with wonder, at the Wiſdom of our Anceſtors, that ſet the Pillars of this *Monarchy* with that ſingular Judgment and Providence, that I have ever obſerved, that ſo oft as either the Prerogative of the Crown, or Liberty of the Subject, *Eccleſiaſtical* or *Temporal* Powers exceed thoſe modeſt bounds ſet and appointed for them, by the ſobriety and moderation of former times, the exerciſe of it over-turn'd to the Prejudice and to the Detriment of the Publiek-weal; all the Strings of this Government and Monarchy have been ſo perfectly tuned through the skill and attention of our Fore-Fathers, that if you wind any of them any thing higher, or let them lower, you ſhall infallible interrupt the ſweet accord, that ought to be entertained of King and People.

With this Opinion I had the honour to ſit many years in the Commons Houſe; and, this Opinion I have carryed along with me exactly and intirely for Fourteen years in the King's Service; ever reſolving in my Heart *Stare ſuper vias antiquas*, to prove, with equal care, the Prerogative of the Crown, and the Liberty of the Subject, to Introduce the Laws of *England* into *Ireland*, ever ſetting before my ſelf a Joynt and Individual well-being of King and People (for either they muſt be both or neither) which made my Misfortune the greater to be now in my Gray-Hairs charged, as an Under-worker againſt that Government, a Subverter of that Law I moſt affected, and a Contriver againſt that Religion, to the Truth whereof I would Witneſs by the Sealing of it with my Blood.

My Lords, As to the latter part, concerning my Religion, they have quitted me; and I have nothing to Anſwer to that, becauſe it is waved; and, I truſt, my *Lords*, I ſhall clear my ſelf in the firſt part, concerning my being a Subverter of the Fundamental Laws, that I ſhall ſtand clear to your Lordſhips Judgments in that Caſe.

My Lords, This Subverſion muſt be by Words, by Councils, and by Action in *Ireland* and in *England*.

My Lords, I ſhall firſt give you an Accompt of the Words, wherewithal I am Charged in *Ireland*; and, the firſt words are in the third *Article*, where I am Charged to have ſaid, *That* Ireland *is a Conquered Nation, and that the King may do with them as he pleaſeth:* And, to the City of *Dublin*, *That their Charters are nothing worth, and bind the King no farther than he pleaſeth.* Theſe are the words Charged.

My Lords, methinks it is very ſtrange, under favour, that this can be made an Inducement to prove this Charge, becauſe I ſaid, That *Ireland*, is a Conquered Nation, therefore I endeavour to ſubvert the Fundamental Laws when I ſpeak the Truth, for certainly it is very true, it was ſo.

My *Lords*, under favour, I remember very well, there was as much ſaid here at this Bar, ſince we began; and yet I dare well Swear, and

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acquit him that ſpake it, from intending to ſubvert the Laws.

For, my Lords, you were told, and told truly, That *Ireland* was a Conquered Nation, and that it was Subordinate to *England* (and, God forbid that it ſhould be otherwiſe) and that they have received Laws from the Conqueror.

My Lords, the words teſtified by my Lord *Gormonſtone* and *Kilmalock* to be ſpoken, are not the words wherewith I am charged, and ſo, under favour, I conceive, cannot be brought to my prejudice, as to this Trial, and they are words that are denied by me.

For my words concerning their Charters, your Lordſhips remember very well, I doubt not, wherefore I ſaid they were void, For their miſuſe of them, and that I told them ſo, not with the intent to overthrow their Patents, or Charters, but to make them more conformable to thoſe things, that the State thought fit, for encreaſe of Religion and Trade, and encouraging and bringing *Engliſh* into that Town; And, that it was meant ſo, and no otherwiſe; Whatſoever was ſaid, it appears by this, their Charters were never touched nor infringed, nor medled withal by me, during the time I was in that Kingdom; ſo that words ſo ſpoken, and to ſuch a purpoſe, that they ſhould go to prove ſuch a Concluſion, I conceive there is great difference betwixt thoſe Premiſes, and that Concluſion.

The next Charge for words in *Ireland*, is in the Fourth *Article*, where I am charged to have ſaid, That I would neither have Law, nor Lawyers Diſpute or Queſtion my Orders: and, that I would make the Earl of *Cork*, and all *Ireland* know, that as long as I had the Government there, any Act of State ſhould be as binding to the Subjects of that Kingdom, as an Act of Parliament.

My Lords, I humbly beſeech your Lordſhips to give me leave to ſay for my ſelf, that theſe words of the Charge are only Sworn by my Lord of *Corke*, and no man elſe: and, his Lordſhip appeared a little miſtaken the other day in one point, on the Reading of an Order of the Council-Board, for ſo it appears, as I conceive; ſo that for one ſingle Witneſs, and he the Party aggrieved by theſe words, to be the Man that muſt convince me, I conceive your Lordſhips will not think that to ſtand with the ordinary Rules of proceeding.

For the reſt, to ſay Acts of State in *Ireland* ſhould be binding, ſo long as they are not contrary to Law, I confeſs I then conceived it had been no Offence, for I thought them to be as binding, being not contrary to Law; but, the Elder we grow, the wiſer we may grow, if God give us the Grace, and Attentions; and, ſo I truſt I ſhall, by theſe Gentlemen, that have taught me to forbear thoſe kind of Speeches hereafter.

My Lords, Theſe are all the Words charged againſt me for *Ireland*, ſaving only ſome things that I ſhall come to anon, that is charged upon me in one of the latter Articles, concerning *Scotland*; I ſay, my Lords, theſe are all the Words that have ſlipped from me in Seven years time, having been well watched, and obſerved, as your Lordſhips may perſwade your ſelves I have been; But, in Seven years time, I ſay, theſe are all the words brought to my Charge: and, in truth, I conceive, a wiſer Man than my ſelf might be forgiven for one Error, or ſlip of his Tongue of that

Nature in a years time, ſeeing it is in no greater meaſure, God be praiſed, than theſe are.

My Lords, Theſe being the words that paſſed from me in *Ireland*, there are other words that are charged upon me, to have been ſpoken in *England*; but if your Lordſhips will give me leave (though perhaps in no very good method) I ſhall not fail to touch firſt or laſt, the words in every *Article*.

The next *Article* then that I am charged withal for words, is the ſecond *Article*, and theſe are the words that I ſhould ſay, concerning the *Finger and the Loyns*.

My Lords, I may alledge much new matter, but I will obſerve your Lordſhips Order punctually, by the Grace of God, for what I may ſay in that caſe, if it might be admitted, I keep it to my ſelf; but the truth is, they that do prove the words to be thus, *That I would make the little finger of the Law, heavier than the King's Loins*; they do not tell you the occaſion of the Speech, or what went before, or what after; for, my Lords, if they had told the occaſion (which methinks they ſhould, as well have remembred as the words) it would plainly and clearly have appeared to your Lordſhips, that Sir *William Pennyman's* Teſtimony was moſt true, for the occaſion was ſuch, that to have ſaid thoſe words, had been to have ſpoken againſt that to which I intended the diſcourſe; but ſpeaking them as I ſaid, it makes very ſtrong for that purpoſe, to which I directed them; which was to appeaſe the Country, and quiet the Diſcontents; for having been double charged with the Knight-money, and therefore it was not properly threatning them, further to have provoked them.

My Lords, You have Sir *William Pennyman's* Teſtimony, that it was ſo, and my Profeſſion; who (under favour) will not ſpeak an untruth to ſave my life; I proteſt before God, that I ſay, I verily believe, or elſe I will never ſpeak it indeed, and there it is they have proved it to have been ſaid one way, we another way, we give the occaſion of our Speech, and diſavow theirs, and ſo we muſt leave it; and howſoever, theſe words ſo ſpoken, can never be drawn (as I humbly conceive) as premiſes to prove their concluſions, that therefore I am guilty of High Treaſon, they have made me guilty of a fooliſh Word, and that I confeſs, and if they pleaſe, I will confeſs it all the day long; for I have been fooliſh all the days of my life, and I hope hereafter I ſhall look unto my ways, that I offend not with my Tongue, for if I cannot rule it abroad, I will rule it within doors, elſe I will never ſtir abroad, but bound it ſo to my own buſineſs and affairs, that I truſt I ſhall give no offence.

The next *Article* that chargeth me with theſe words, is the 22*th Article*, and theſe be words ſpoke in *England*; The firſt part of them, which concerns the bringing in of the Iriſh Army, I have ſpoken to already; but in the concluſion there are other words, and ſhortly, the ſaid Earl of *Strafford* returned to *England*, and to ſundry perſons declared his Opinion to be, That his Majeſty ſhould firſt try the Parliament here, and if that did not ſupply him according to his occaſions, he might then uſe his Prerogative as he pleaſed, to levy what he needed, and that he ſhould be acquitted both of God and Man, if he took ſome other courſes to ſupply himſelf, though it were againſt the Will of his Subjects.

My

My Lords, as unto this, I conceive the Charge is not proved by any Witneſs, that hath been here produced againſt me; and in truth, my Lords, I muſt needs ſay this, under favour (if it be an Error in my Judgment, I muſt humbly crave your Lordſhips pardon) through the whole Cauſe I have not ſeen a weaker proof, and if I had had time to have gotten my Witneſſes out of *Ireland*, I hope that ſhould be proved, and ſo clearly, as nothing could be proved more; but I muſt ſtand or fall to what I have proved, and ſo I do my Lords; the proof they offer for this (as I conceive) is the Teſtimony of my Lord Primate, and his Teſtimony is, That in ſome diſcourſe betwixt us two, touching Levying upon the Subject in caſe of emminent Neceſſity, he found me of opinion, that the King might uſe his Prerogative as he pleaſed. My Lords, this is (under favour) a ſingle Teſtimony, it is of a diſcourſe between him and me, and there is not any other that witneſſes any thing concerning it, ſo that (under favour my Lords) I conceive this will not be ſufficient to bring me any ways in danger of Treaſon, being but a ſingle Teſtimony; and my Lords, it is to be thought, and to be believed (and it were a great offence for any man to think otherwiſe) that in this Caſe any thing can pleaſe the King (he is ſo Gracious and Good) but what ſhall be Juſt and Lawful, and then there is no doubt, but ſo far as with Juſtice and Lawfulneſs, he may uſe his Prerogative in caſe of emminent Danger, when ordinary Means will not be admitted.

At moſt, he ſaith it was but an Opinion, and Opinions may make an Heretick, but they ſhall not, I truſt, make a Traitor.

The next is the Teſtimony of my Lord *Conway*, and the words that his Lordſhips teſtifies are theſe; That in caſe the King would not be otherwiſe ſupplied by Subſidies, he might ſeek means to help himſelf, though it were againſt the will of his Subjects. Truly, my Lords, if I ſhould acknowledge theſe words, I do not ſee how they can be any way Capital in my Caſe; but this again is but a ſingle Teſtimony, and there is no other that ſays it but himſelf, and if there be a good ſenſe given to them, certainly the words may very well bear it, for I think it is a very natural motion for any man to preſerve himſelf, though it be to the diſliking of another; and why a King ſhould not do it as well as a Subject, it is ſuch a Prerogative of Kings, as I never yet heard of; for I thought, though they had been Gods on earth, yet they are men, and have affections as men, and ſhould preſerve themſelves, being not only accountable for themſelves, to God Almighty, but alſo for their Subjects, whoſe Good and Benefit is wrapt up and involved in theirs, and therefore the King ought more to regard his own preſervation, than the Commonwealth.

The Third is, That Mr. Treaſurer ſays, that to his beſt remembrance I did ſay, That if the Parliament ſhould not ſucceed, I would be ready to aſſiſt his Majeſty any other way; God forbid this ſhould be any Offence for to ſay ſo, either in him or me; for I will ſwear, if it pleaſe you, that he ſaid ſo as well as I, therefore God forbid, it ſhould endanger either of us both; for, my Lords, to ſay I will ſerve the King any other way, it is no other than what became a good and faithful Servant to do, always provided, the way be good and lawful, which in this caſe, is always to be admitted among Perſons of Honour and Perſons of Truſt; and therefore admitting it not any other way, it was juſt, and lawful, and commendable

in Mr. Treaſurer and me; for I vow to your Lordſhips, we both ſaid it, and he as fully as I.

But, my Lords, all theſe come very far ſhort, to prove the words of the Charge, and this (under favour) is all the proof as I have taken; that I ſhould ſay theſe words before the Parliament.

The next words I am charged withal, are in the 23 *Artitle*, and thoſe, my Lords, are, that having tried the Affections of his People, his Majeſty was looſe and abſolved from all Rules of Government, and was to do every thing that Power would admit, and that his Majeſty had tried all ways, and was refuſed, and ſhould be acquitted both of God and Man: For the latter part that concerns the reducing of this Kingdom by the Iriſh Army, I have anſwered already, and therefore ſhall not read to repeat it.

My Lords, mine Anſwer (under favour) to thoſe words, with your Lordſhips noble permiſſion, muſt be thus, That they are no way proved in the moſt material part of them, by any Teſtimony that hath been offered, I ſhall, as near as I can, repeat the proofs that were offered on this point (for theſe *Articles* were brought in four or five together,) but I ſhall apply the proofs ſeverally and diſtinctly.

The Teſtimony firſt given, was the Teſtimony of the Lord of *Briſtol*, wherein his Lordſhip ſays, That in a diſcourſe, there was difference betwixt his Lordſhip and me, in ſome Tenents of ours. To which I anſwered the other day; that in diſcourſe we ſpeak not always the things we think, but many times to gain from other mens arguments, to ſtrengthen me in my opinion, I will ſeem to be of the contrary; This is ordinary and familiar in all converſation, and very honeſt and juſt, ſo that albeit we ſeem to differ as we held it ſeverally, yet if the pulſe of our hearts had been touched cloſe, both his and mine, perhaps we ſhould have found it one and the ſame; Beſides, his Lordſhip ſaid, I diſliked not the diſcourſe, we ſpeaking of another Parliament; only I ſaid, it was not convenient at that time, and that the preſent dangers would not admit a remedy of ſo long conſideration; and that the King muſt provide for the Commonwealth, *Et ſalus populi ſuprema lex.*

And truly, my Lords, I think that it is very hard, any man ſhould upon ſuch a diſcourſe, have his words turned upon him, and made uſe of to condemn him for High Treaſon.

My Lords, I know you are ſo juſt that you would judge me, as you would be judged your ſelves, and whether any man that hears me, would be content, to have every word that falls in diſcourſe betwixt man and man, to be ſo ſeverely interpreted, I leave to every man's breaſt, what he finds in the cloſet of his own heart: and deſire to be judged according to that.

My Lord went further, and ſays, I ſhould ſay that the King was not to be maſtered by the frowardneſs, or diſaffection of ſome particular men, and conceives it to be meant of the Parliament.

My

My Lords, I ſay (under favour) theſe words are not within the Charge, and therefore I am not to be accountable for them; beſides, it is a ſingle Teſtimony, and by the *proviſo* of that Statute, cannot be made uſe of, to the end and purpoſe for which they bring them.

My Lords, the next Teſtimony offered for proving this Charge, is the Teſtimony of my Lord of *Newburgh*, and he ſays, That at the Council-Board, or in the Gallery I did ſay, that ſeeing the Parliament had not ſupplied the King, his Majeſty might take other Courſes for the Defence of the Kingdom. Truly my Lords (under favour) who doubts but he might, for my part, I ſee not where the Offence is; for another man to have ſaid thus, for if another man will not help me, may not I therefore help my ſelf? (under favour) I conceive there is no great weight nor crime in theſe words, but in theſe likewiſe he ſtands a ſingle Teſtimony, there is no man that joyns with him in it; and there is this in the whole Cauſe, concerning the words, that I think there is not any one thing wherein two concurr.

The next Teſtimony is that of the Earl of *Holland*, and he ſays, That at the Council-Board I ſaid, The Parliament having denied the King, he had advantage to ſupply himſelf other ways; Truly, my Lords, I ſay ſtill other ways, being lawful ways, and juſt ways, and ſuch ways as the goodneſs of the King can only walk in, and in no other can he walk. And therefore I conceive, they be far from bringing it to ſo high a guilt as Treaſon; and this likewiſe his Lordſhip expreſſes as the reſt do, ſingly on his own word, as he conceives them, and not on the particular word of any other perſon, which is I ſay, the caſe of every one that ſpeaks in the buſineſs; and therefore there being a great difference in the Report and Conceiving of things, it is very hard my words ſhould be taken to my deſtruction, when no Man agrees what they were.

My Lord of *Northumberland* is the next, and he ſays I ſhould ſay at a Committee for the Scotch affairs, That in caſe of Neceſſity, and for Defence and Safety of the Kingdom, every thing muſt be done for the preſervation of the King and his People. And this is the Teſtimony of my Lord in that point; if I take any thing ſhort, it is againſt my will, I give you my Notes as far as I have them, and further I cannot remember them.

But my Lords, I ſay this brings it to that, which is indeed, the great part of my Defence in this caſe: There is another agreed in this too, and it is Mr. *Treaſurer*, who ſays, That in the Argument for Offenſive or Defenſive War, I ſhould ſay, That having tried all ways, and being refuſed, the King might in extream Neceſſity, provide for the Safety of himſelf and his People; I ſay this brings it to that, which is principally for my Defence that muſt qualifie, if not abſolutely free me from any blame; and that is that which did proceed and follow after.

My Lords (under favour) I have heard ſome diſcourſe of great weight, and of great Authority; and that is certain, the Arguments that were uſed in the Caſe of Ship-money, by thoſe that Argued againſt the King in that Caſe, ſay as much, and will undertake, if any man read thoſe Arguments, he ſhall find as much ſaid there, as I ſaid at Council-Board; for there you

ſhall

ſhall hear, that there be certain Times and Seaſons, when Propriety ceaſes, as in the caſe of Burning, where a man pulls down the next Houſe, to preſerve the whole Street from being ſet on fire. In the caſe of building Forts on any mans Land, where it is for the Publick Defence of the Kingdom, in both theſe Caſes, Propriety doth ceaſe: nay, he ſays that in War, *Inter Arma ſilent Leges.* Now, my Lords, theſe are as highly ſaid, as any thing you have heard by me, and yet certainly is no ſubverting of the Fundamental Laws for all that; and therefore, if a man muſt be judged, he muſt not be judged by pieces, but by all together,

My Lords, Whatſoever I ſaid at Council-Board, was led in by this Caſe, what a King ſhould do, in caſe of a Foreign Invaſion of an Enemy, when the ordinary ways and means of levying Money would not come in ſeaſonably to prevent miſchief, for what a King may do, in caſe of Abſolute Neceſſity; certainly in theſe caſes, the ordinary Rules do not take place; as this was the Caſe that let in the Diſcourſe, ſo I moſt humbly beſeech your Lordſhips (for it is fully proved) to remember what was the concluſion of that Diſcourſe; which was, That after the preſent occaſion provided for, the King was obliged in Honour and Juſtice to vindicate and free the Liberty of the Subject from all prejudice and harm it might ſuſtain in that extraordinary occaſion, and that this was to be done by a Parliament, and no other way but a Parliament: and the King and his People could never be happy, till the Prerogative of the Crown, and the Liberty of the Subject were ſo bounded and known, that they might go hand in hand together, mutually to the aſſiſtance of one another.

My Lords, give me that which precedes, and that which follows, (both being proved to be the Caſe in theſe words in the Charge) I think, conſidering theſe two, I ſhould be far from having committed any great Crime or Offence, in ſaying theſe words.

But I ſay, as I ſaid before, I ſhall be more wary for the time hereafter, if it pleaſe God to give me that Grace and Life, which I ſubmit to him, and ſhall readily and willingly reſign to his good Will and Pleaſure; I conceive therefore, that as theſe words are accompanied, they be not words that do amount to Treaſon, and are ſo qualified, and ſo weakly proved, that I truſt they ſhall not ſtick with your Lordſhips.

The next words that I am charged withal in *England*, be on the 25*th Article*, and that is, That I ſhould ſay, that the Alderman that would not give in the Names of the able Men of the City, deſerved to be put to Fine and Ranſome, and that no good would be done with them, till an example were made of them, and they were laid by the heels, and ſome of the Aldermen hanged up.

In the firſt part of the *Article*, there is ſomething, concerning my advice for raiſing the Money, but it is not proved that I did any thing therein, but as others did, and as in former years had been done, before my coming into the Kingdom: For the words, that *they deſerved Fine and Ranſome*, I confeſs them in my Anſwer, juſt in the ſame manner as my Lord of *Berkſhire* was pleaſed to teſtifie them the other day, that is, That if they ſhould not do the thing deſired, they might, in my Opinion, be liable to Fine and Ranſome.

And

And my Lords, admit I were miſtaken in my Opinion, ſhall it be a Treaſon to be miſtaken? I ſay in my Opinion, they might be liable to Fine and Ranſome; but what is this to Treaſon? Under favour, nothing at all as I conceive. For the other part, that it would never be well, till ſome of the Aldermen be hanged; it proves to be teſtified by Mr. Alderman *Garroway*, and he owns it only for himſelf; for it was not that ſome of the Aldermen ſhould be hanged; but he ſaid at the Bar, till he himſelf were hanged.

My Lords, This is a ſingle Teſtimony; and theſe words, as he ſays, were by me ſpoken to the King at the Council-Board, That it would never be well till ſome of them were hanged, meaning himſelf; truly my Lords, I thank God I never ſpake ſuch unmannerly Language all the days of my life, I have had more regard to my words, than to ſay ſuch things to my Maſter; and your Lordſhips muſt needs be many of you by, and I am very confident, there is not one among you, that can remember any ſuch words were ſpoke; for in good faith, I did not ſpeak them: And, my Lords, before this Misfortune did befall me, I ſhould with modeſty have thought my ſelf a Perſon on equal terms, to have been believed as well as Mr. *Garraway*, and I ſpeak it with as great confidence as he, that I never ſpake the words.

My Lords, The next is the *26th Artitle*, and that is, that I ſhould ſay the City of *London* dealt undutifully with the King, and they were more ready to help the Rebels, than to help his Majeſty; and if any hurt came to them, they might thank themſelves.

My Lords, I am in the firſt part of this *Article*, charged to have counſelled and approved two dangerous and wicked Projects, the one concerning the ſtay of the *Bullion* in the *Tower*, the other concerning *Copper-coin*, and no proof hath been offered, that I either compelled, or approved either of thoſe two Projects. And my Lords, it is proved to your Lordſhips, that when the Merchants came, I told them, I knew nothing of the buſineſs as to the *Bullion*, neither indeed, did I ever know there was any *Bullion*, nor any thing of that nature in the *Tower*. But for the words, I conceive it had been no Treaſon for me to think at that time, that the *Londoners* had dealt unthankfully with his Majeſty, I thought I might have ſaid it freely, without danger of ſuch a thought, as might conduce to the convicting me of Treaſon.

But whatſoever I then thought, or on what grounds ſoever, it may be remembred, that then I alledged, and now I ſpeak it, when news was brought to *York*, that the City had ſent the King Two hundred thouſand pounds, I took notice, that notwithſtanding all I had thought formerly, they had now made ſuch recompence, and ſo cleared their Faith and Duty to the King, that I ſhould be their Servant, and lay my hand under their feet, as thoſe that heard me are able to ſpeak; for though at firſt I ſaid they had dealt unthankfully with the King, yet afterwards I was ready and willing upon all occaſions, to teſtifie the contrary of them, and to profeſs that I was ready to ſerve them upon all occaſions, juſt, and honeſt, and honourable.

As for my ſaying, that they were readier to help the Rebels than the King. In truth I am a man that cannot juſtifie a thing I do not approve,

I muſt needs ſay, it was an unadviſed Speech; and, I wiſh I had not ſpoke it: it ſeems I did ſpeak it; for I have reaſon to believe honeſt men when they Swear, though, in truth, I remember it not: but, I have no reaſon or cauſe to think, they would take an Oath otherwiſe then truth. I have no exception to the Men, and therefore, upon their words, I muſt credit them, before my own memory; but, it was an unadviſed Speech, and he is a wiſe man, and much wiſer then my ſelf, that ſometime offends not with his Tougue. And, in truth, my Lords, though there be no Treaſon in it, they are the moſt unwarranted words that appear in the whole Proof made againſt me.

In the 26*th* there are ſome words, that I ſhould ſpeak to my Lord *Cottington*, concerning a Fooliſh Pamphlet, or *Gazette*, which I then had in my hand; and, it is ſuch a Toy in it ſelf, and all the Circumſtances of it, that I hold it not worth the mentioning, but only that I would not forget any thing in the Proofs, as near as I could, and the Proof is uncertain, for only one Man ſays it, and, the very words he cannot expreſs: Now, he that ſhall Swear, when he cannot expreſs the Words, his Teſtimony is but of ſmall value; and, he is but a ſingle Proof at beſt to diſprove what is depoſed by Sir *William Parkhurſt*, who ſays, he was by, yet heard not the Words; And, *Cogam* ſays, he remembers not the words: and ſo, upon the matter, there are two againſt one; and, the whole being ſo uncertain, I conceive it is of very little moment in your Lordſhips Judgments.

My Lords, Theſe are as near as I can gather, all that are charged as unto words, ſpoken either in *England* or *Ireland* Councils, other then theſe I am not charged withal, and ſo there remains nothing but my Actions; and, if I can free them as well, as I have freed the Words, I conceive then, under favour, I have fully Anſwered all, that hath been objected againſt me.

My Lords, The firſt of theſe is the *Fifth Article* in the Caſe of Sentence of the Council of War, againſt my Lord *Mountnorris*, and the Sentence of the Council of War againſt *Denwit*.

For that of my Lord *Mountnorris*, I have ſhewed plainly and clearly to your Lordſhips, that I was no Judge in the Cauſe, but a Party, and therefore not Reſponſible for any Judgment given againſt his Lordſhip. I gave no Vote, and ſo conſequently am not to Anſwer for any Guilt, if there were any; which, under favour, I conceive, ſince all Martial Law is adjudged to be againſt the Law, I may be of another Opinion; but, formerly conceiving that that might have ſtood with the Law, I might ſay ſomething more for the Juſtification of it, then now I do, but however I was no Party.

They ſay, He was a Peer, and it is very true; but, as he was a Peer, ſo he was a Captain of the Army; and, in this Caſe, we conſider Men as Members of the Army, not as Peers: And, if a Peer will not ſubmit himſelf to an Officer of the Army, he muſt ſubmit himſelf to the Order of the Army.

Beſides,

Beſides, I ſay, it was intended only as a Diſcipline to him, the better to remember him to govern his Tongue afterwards towards other Men; and, that there was no more Prejudice fell upon him by it, but two or three Days Impriſonment, ſo there was no great Animoſity in the buſineſs: beſides, it appeared to your Lordſhips, that two or three Days after, we writ to the King, and obtained his Pardon; ſo that I conceive, the Inconvenience was not very great to him, nor the Proceedings ſuch, as ſhould make it unpardonable, or Criminal in them that gave Sentence upon him, whereof I was none.

For that other, concerning *Denwitt*, your Lordſhips may remember, he was found Guilty of Stealing a Quarter of Beef, and for Running from his Colours, and was formerly Burnt in the Hand; for that he ſhould be Proceeded againſt another way: But, falling out at that time, when Five hundred Men were going over to *Carliſle*, and they being unwilling to be put to Sea, we were inforced to thoſe Proceedings for the preventing of further Miſchief. And, there is another thing; that the Martial-Law hath been alway in Force, and Executed in all times in *Ireland*, and never ſo ſparingly as in my time; for, this is the only Man that ſuffered all the time I had the Honour of the Government: And, I dare Appeal to them that know the Country, Whether, in former times, many Men have not been Committed, and Executed by Martial-Law, by the Deputy's Warrant, that were not Thieves and Rebels, but ſuch as went up and down the Country? if they could not give Account of themſelves, the Provoſt-Maptial, by Direction of the Deputies, uſing, in ſuch Caſe, to Hang them up. I dare ſay, there are Hundreds of Examples in this kind; ſo that as to that, I do not Juſtifie it; But, I ſay, it is a pardonable Fault; and that others are of Courſe Pardoned for it; And, I truſt, that what falls of Courſe, ſhall not be laid upon me as High-Treaſon, or conducing to it.

The next is the *6th Article*; and that is in the Caſe of *Richard Roſſon*; and, therein, I am ſaid to have Subverted the Fundamental Laws, by Executing a Power, and a Juriſdiction, which was not Warranted by Law, upon a Paper-Petition, putting out of Poſſeſſion of his Freehold and Inheritance my Lord *Mountnorris*.

My Lords, That Sentence will appear to your Lordſhips to be no more, than the relieving of a Poor Man in caſe of Equity; and, it is proved to you to be a Power, that hath been formerly practiſed by the Deputies; and I humbly conceive the Decree is Juſt: So that, my Lords, I muſt confeſs, it is ſomething ſtrange to me, That having the King's Letter to Warrant me in the Courſe of Proceedings, and having the Power of former Deputies in like Caſe, and doing no more therein than the Lord Chancellor, by the very ſelf-ſame Law, ſhould do in other Places: And, that which ſhould be——done, by the Chancellor, ſhould be Innocent and Juſt, yet become High-Treaſon when done by me, is a thing I underſtand not.

The next is the Caſe of *Tonnres*; and that is waved by them; and well may it be; for, it was a Caſe of Plantation; there was no Poſſeſſion altered, and it is fully within the Book of the King's Inſtructions.

The next is in the Caſe of Sir *John Gifford* againſt the Lord Viſcout *Loftus*, which they have waved; and, well they may; for it was grounded on a Letter from the King, Commanding it to be heard by the Deputy and Council, which is clearly within the Inſtructions, and hath been ſince heard by the King and Council-Board, and by them Confirmed for a Juſt Decree.

The next is in the Caſe of my Lord of *Kildare*; and, that they may well wave too; the Proceedings being grounded upon a Letter from His Majeſty, and nothing done but in purſuance of an Award between the Lord *Digby*'s Houſe, and that Houſe of *Kildare* made by King *James*.

The next is the Lady *Hibbot*'s Caſe; and that was Relief given to poor Men, circumvented by Practice, to the Prejudice of himſelf. My Lords, I had Power to hear that Cauſe, and all Cauſes of that Nature, by the King's Letter, and according to the Practice of former Deputies: And, I conceive, it will appear, when it comes to be heard, to be a juſt and fair Decree, I do not any way queſtion that, though I remember little of the buſineſs.

But, at the worſt, this is but an over-exerciſing of a Juriſdiction; and that it ſhould be High-Treaſon, in a Judge to exceed his Juriſdiction, I muſt confeſs I never heard it. I told your Lordſhips the other day, *Bono Judici eſt Amplior Juriſdictio.*

But, that it ſhould be High-Treaſon to enlarge Juriſdiction, is a perilous Point; and, if it be ſo, it befits your Lordſhips, and all Judges, to be well certained what you may do, leaſt by going too far, you fall into great Inconveniences.

But, my Lords, I ſay (under favour) that all theſe, if they had been done without any manner of Authority, had not been a Subverſion, but rather a diverſion of the Law: It could not be properly ſaid, to be the ſubverting of the Fundamental Laws, though it might be a diverting, and ſo long as I keep the Rule of the Law, and do the ſame things that another Man does, in a more legal way, I mean, in a more warrantable Place; I ſay, my doing of the ſame thing in an improper Place, is not a Subverſion, but a Diverſion of the Law: If you will bring in the *Thames* about *Lambeth*, to come in again below the Bridge, the River is the ſame, though the Courſe be diverted to another place: So the Fundamental Law is the ſame, though the Courſe be diverted to another place; I ſay, the Fundamental Law is the ſame, only it is carry'd in another Pipe: And, Shall this be ſaid to be a Subverting? Under favour, as the River is the ſame, ſo the Law is the ſame; it is not a Subverſion, but a Diverſion. Nor doth it skill where Juſtice be done (I mean ſo far as it concerns the Subjects Intereſt) for, ſo long as he hath Juſtice ſpeedily, and with leaſt Charge, his end is complyed with, and it concerns not himſelf, whether he hath it in the *Kings-Bench*, or *Common-Pleas*; ſo he hath it ſpeedily, and with the leaſt Charge: And therefore, as long as the Laws are the ſame, though Executed by ſeveral Perſons, and in ſeveral Places, I cannot conceive it to be a Subverſion: And, I ſhall humbly beſeech your Lordſhips, to take care, that while theſe ſtraines are put upon me, to make this Perſonal Charge againſt me, ye do not through my Sides, Wound the Crown of *England*, by taking that Power from the

Deputy

Deputy, which muſt of neceſſity be lodged in him, if you will have that Kindom depend upon the Crown of *England*, which I hold, in all Wiſdom and Judgment, ought to be cared for: Therefore, I beſeech you, prejudice not the Deputy, to the diſabling him from Serving the Crown hereafter, by beating down me, who am this day to Anſwer before you; For, if you take away the Power of the Deputy, you ſhall not have that Kingdom long depend upon this Crown; for, it reſts under God and His Majeſty, and muſt principally reſt upon the Care of *him* that is intruſted with that Charge: And, therefore, give me leave, on the behalf of the Crown of *England*, to beſeech you to be wary of leſſening the Deputy's Power too much; for, if you do, I fear you will find it a great Diſſervice to the Crown.

My Lords, the next thing I am Charged *with* is the *9th* Article; That is, a Warrant of Aſſiſtance to the Biſhop of *Down* and *Connor*, and, for that, your Lordſhips ſee there was but one of them, and have heard it proved, that before my time ſuch Warrants were frequent indeed, no Man was denyed them: but, my Lords, it muſt likewiſe be remembred, that of my own accord, I did recall it, before I was ever queſtioned for it; and, it is very hard, if he that mends his Faults, ſhould be afterwards puniſhed for *it*; for it is a Degree of Repentance, and, it is hard, that a Man ſhould be finally Condemned after Repentance: and therefore, my Lords, I truſt, ſeeing there was but one of them, ſeeing I did my ſelf recall it, ſo willingly, as ſoon as I found the Inconvenience, I hope that will be eaſier remitted to me.

The next is the 10*th*. *Article*, that concerns the Cuſtoms, and that is rather to be looked on as a Fraud, than as a Treaſon, as I conceive it, there is no Treaſon in the buſineſs ſure: But, I have proved the Bargain was honeſtly made; That there was more offered for it by me than any other; That I had it upon no other Terms, than it formerly let to others; That I was conſtrain'd to it, whether I would or no; and then, my Lords, if the Bargain, by the Increaſe of that Kingdom, prove a good and profitable Bargain; it is a very hard Caſe, that if it be increaſed through the King's Wiſdom and Goodneſs, and the Kingdom's Growth, Trade and Traffick, that this ſhould be turned upon me, as an Argument, to make me Guilty of Treaſon,

I never found a good Bargain ſhould be ſo Charged, ſo long as it was honeſt and fair.

But, whereas they preſs, That I have gained Three Hundred Thouſand Pounds Eſtate by it; it is a very ſtrange miſtake: For, the King, has out of it His Rent of 15 or 16 Thouſand Pounds a Year, and Five entire parts of Eight clear to Himſelf; and therefore it was a ſtrange Calculation, and much miſtaken by them that gave the Information of it to the Gentlemen.

For the Book of Rates it was none of mine, but was agreed on before my time; I had nothing to do with it, and therefore have nothing to Anſwer for it: And, when it ſhall come to be proved, it will appear, that the Rates were ſet fairly and juſtly, and equal betwixt King and People, according to the Law, whatſoever hath been ſaid to the contrary.

The next is the 11*th Article*, concerning Pipe-ſtaves, and that is by them waved; and well they may, for the plain truth is, if it had been proceeded in, it would have appeared, that there is come Fifteen hundred pounds gain to the King, and Four hundred pounds loſs to my ſelf, and preſerving of Woods, and that is all that would be made from that Article.

The next is the buſineſs of the Tobacco, which is not applyable to Treaſon in any kind; but becauſe I would be clear in every Man's Judgment that hears me, I beſeech your Lordſhips to call to mind, it was the Petition of the Commons Houſe of *Ireland*, that the Grant of Impoſt on the Tobaceo ſhould be taken in, and converted to the King's uſe; ſo that whatſoever was done, was purſuing their intention and deſire.

That there was no way but this, to make benefit and profit of it, is moſt manifeſtly ſhewed, that there was a Proclamation in *England* of the like nature, and a Command of the King to proceed in it accordingly; and an Act of Parliament Tranſmitted here, for Paſſing it to the Crown, according to the intention of the Commons Houſe; and, for the greatneſs of the Bargain, no Proof hath been offered to your Lordſhips, but only the Eſtimate of a Merchant; and how far your Lordſhips will be guided by the Eſtimate of a Merchant I know not; but, I have had Trial of ſome of them, and their Eſtimates never hold; for, they have always told me, I ſhall gain much, and when I came to the Point, I gained nothing: and if Sir *George Ratcliffe* ſhould be Sworn to the Point, he ſhould ſay confidently, that we are Fourſcore and ſix thouſand out of Purſe, and; when he came out of *Ireland*, but Fourſcore thouſand pounds received; and this is the Profit Eſtimated by the great Merchants, at a Hundred and Forty thouſand pounds a Year: But, at the worſt, it is but a Monopoly, and a Monopoly of the beſt condition, becauſe it was begun by a Parliament. I have ſeen many Monopolies queſtion'd in Parliament, and many overthrown in Parliament, but, I never heard a Monopoly charged for a Treaſon.

My Lords, The next is the 13*th Article*, and that is concerning the Flax buſineſs; for that, my Lords, if I had thought it any way concerning me, I could have cleared it in a very great meaſure; But, I had no private Intereſt in the buſineſs, much leſs of private profit; but only an endeavour and deſire, to bring in the Trade of Linnen-Cloth to that Kingdom, which would be much Advantage to both Kingdoms, and no prejudice to this Kingdom, which a Wollen Trade would have been, if ſet up there.

And, the Proclamation, when it was found not ſo well liking to the People, was called in of our own accord, before it was queſtion'd, and ſo laid aſide, and given over.

For any matter of private Benefit, you have no Witneſs but *Crokay*, a Fellow brought out of Priſon; Here is but a ſingle Witneſs, and a ſorry one; a Fellow, who, by misbehaving and miſuſing the Truſt committed to him, was turned out; and upon the turning of him out, the Proclamation was abſolutely called in: and, now he comes to be a Witneſs, being himſelf the only offended in the Cauſe.

But, I beſeech your Lordſhips, to think, I have not lived with ſo mean a Heart in the World, that I ſhould look to gain Four Nobles more or leſs, upon

upon a Cart-load of Flax; It is very well known my thoughts have carryed me free enough from gaining ſo poor and petty a Matter, as that is. I know nothing in the World of it, no more than the Man in the Moon; but when it comes to be heard, your Lordſhips will find me extream pure in that; for, I thank God I have clear hands I aſſure you.

The 14*th* is waved by them, concerning an Unlawful Oath given to Maſters and Officers of Ships; and, it might very well be waved; for I conceive it to be Warranted by the Law: Sure I am, it is both the Practice of *England* and *Ireland*, and hath always, and at all times, been practiſed and uſed, and is only for the preventing of Fraud and Deceit in Merchants, by not paying the King's Duties and Cuſtoms.

The 15*th* is Anſwered already I hope.

The 16*th* doth Charge upon me certain Propoſitions I made, before I went into *Ireland*: And, in good Faith, my Lords, you may ſee, how ſhort-ſighted Men may be to their own Actions; for, I did very well believe, I ſhould never have reaped any thing from thoſe Propoſitions but Thanks; I am ſure they were well received then, when they were offered to His Majeſty and the Council; and, I muſt truly confeſs, I never thought they ſhould be objected againſt me as a Fault.

My Lords, The Propoſition was, That no Man ſhould be allowed to Complain of Injuſtice or Oppreſſion in *Ireland*, unleſs he firſt addreſſed himſelf to the Deputy: My Lords, there was no Original Intent, but only to prevent Clamours, and Unjuſt Vexations of the King's Miniſters there; that after Men had received Judgment of the King's Courts, they might not preſently come, and, by Clamours, call over a Chief Juſtice, or a Chancellor, or Preſident, to Anſwer here, and be at the charge of five or ſix hundred pounds, unleſs they acquaint the Deputy with it, that they might be righted in the place; and, this is Charged againſt me as a great Crime.

Truly, my Lords, I ſhall Confeſs, and Amend any thing, and truſt other Judgments rather than mine own; but, I ſee not how this can Charge me, as intending to ſubvert the Laws of the Land, but rather to preſerve them.

The other concerns a Proclamation, That none ſhall depart the Kingdom without Licenſe.

My Lords, for that I have ſhewed, that no Man out of that Kingdom, can come without Licenſe, but upon very great Penalties. I have ſhewed likewiſe, it was the deſire of their own Agents ſome 15 or 16 Years ſince, That there might be ſuch a Reſtraint, and none might come over without Licenſe. I have ſhewed you likewiſe, the Inſtructions to my Lord of *Faulkland*, by which he was Commanded, in purſuance of that Deſire, that none ſhould come over without his Licenſe: I have ſhewed the expreſs Command of His Majeſty to me, to have it ſo. I have ſhewed you likewiſe the Reaſons of State, why it ſhould be ſo, to prevent that Practice and Intelligence, which might otherwiſe ariſe betwixt them of that Nation, ſerving under *Tirconnell* and *O Neale*; and likewiſe to prevent the going over, and tranſplanting the Prime Nobility and Gentry to Seminaries,

minaries, and other ſuch places, there to be brought up: and therefore in Reaſon of State, it is a Reſtraint, and ought ſo to be. But having, theſe grounds of Law, Warrant, Practice, Former Inſtruction and all, Why this ſhould be brought to me in particular Charge, to Convince me of endeavouring the Subverſion of the Laws, I muſt ſubmit to your Lordſhips.

My Lords, There is in the latter part of this, another Charge; concerning the Sentencing of one *Parry*, who was Sentenced (as I conceive) very Juſtly; and, I have no more to Anſwer for in that Sentence, than any of the reſt, having but a ſingle Voice; and, that I ſhould Anſwer for all, I confeſs is ſomething hard. But, there is no manner of Teſtimony in the World in this, ſaving the Teſtimony of *Parry* himſelf: Now, if *Parry*, the Man offended, his Teſtimony ſhall be taken againſt the Judge, I know no Man can be ſafe, and other Teſtimony is not offered: and therefore I truſt that that will eaſily fall off of it ſelf.

The 17*th*. is likewiſe waved; and is, in Truth, of no great Conſequence, one way or other; and therefore I ſhall give no other Anſwer to it; It was well waved, and had been as well left out, having no great matter in it.

The 18*th*. is likewiſe waved, but it is that which ſticks very heavy upon me; and wherein I find my ſelf as much afflicted, as in any one part of the Charge: For, my Lords, here I am Charged up and down, to endeavour to draw upon my ſelf a Dependance of the Papiſts, in both Kingdoms of *Ireland* and *England*; and, that I have, during the time of my Government, reſtored divers Maſs-Houſes in *Dublin*, and elſewhere, that have been by Precedent Deputies taken away, I am likewiſe Charged to have drawn to my ſelf a Dependance of the *Iriſh* Army, Eight thouſand, all Papiſts; and likewiſe to have miſcarried my ſelf in a Commiſſion intruſted with me, before my going into *Ireland*, concerning Compoſitions for Recuſants.

This is a very heavy and grievous Charge, and hath raiſed a great deal of ill Opinion againſt me in the World, to be a Favourer and Contriver with Papiſts, and I know not whom, againſt the Religion I profeſs, a Greater and Fouler Crime there cannot be againſt God or Man; and yet this goes in Print all over the World: and, when it comes to the Point, here is no Proof, nor any part of the Charge made good. And therefore, ſince it is not made good by the Charge, I humbly deſire I may be vindicated in your Lordſhips Noble Opinions, and the Opinions of all that hear me, that I am, in my Religion, what *I* ought to be; and, that which I will Die in, and maintain againſt all the World: And I am ſo far from Contriving any thing to the hinderance of it, that, if God give me life, I will ſerve it, and prevent any Inconvenience to it: and, my Religion and Duty to God is ſo Dear, and precious to me, that there is nothing in this World, but I ſhall lay it down, as Straw and Stubble, under my Feet, and trample upon it, rather, than in any kind, forfeit that; But in the mean time, I ſuffer, and muſt be content.

My Lords, the next is the 19*th* *Article*; and, that was, for framing a New and Unuſual Oath, which the *Scots* did take in *Ireland*, to give Pledges

Pledges of their Allegiance to the King; I have ſhewed you for that, that the Oath was framed by the King's expreſs Command in *January*, before the Oath was given, which was, I think, in *May*. And, I did then humbly conceive it lawful for me ſo to do, being only to take from them a Pledge of their Allegiance to the King. I confeſs, I conceived ſuch an Oath might have been lawfully Adminiſtred to the People; and ſhewed, that the ſame Oath was Adminiſtred here in *England*, to thoſe of that Nation, I ſhewed that it was taken in *Ireland* voluntarily: And, I humbly repreſent to your Lordſhips the time when this Oath was required, when the King and both the Armies were in the Field, lodged not far from one another: And, whereas it is ſaid, it ſhould oblige the Clergy in Eccleſiaſtical Matters; if your Lordſhips call to mind, the very Oath it ſelf clears that Point, requiring only a Temporal Obedience allegiance, in a time of that Danger and Diſtraction, given by the King's own Command, and to no other purpoſe.

And, my Lords, the Proofs are nothing at all on the matter; Sir *James Mountgomery* tells you a Tale, not much material; nor Mr. *Maxwell*, nor Sir *John Clotworthy*; there is nothing at all in it concerning Treaſon. *Stewart*'s Sentence remains only to be Anſwered in this Article; for that, I conceive it was Juſtly and Fairly given, as I then conceived. I was one of the reſt, and nothing was intended by that Decree, but his Reformation; and, when he had pleaſed to have taken the Oath, he might have been releaſed of the Sentence, and ſent home again quietly.

The next is the 20*th*. *Article*; Wherein I am Charged to be a Provoker, and Incendiary of a War againſt His Majeſties Subjects of the Scotch Nation; and, that I ſhould ſay of them, *They were Rebels and Traitors*: and, being about to come into *England*, that I ſhould ſay, *I would root out of the Kingdom the Scotiſh Nation Root and Branch.*

My Lords, I ſhall need no more to ſay in this, for my being an Incendiary, I think, by the Proof, it hath been clearly made to appear to your Lordſhips, that I gave no Opinion, but ſuch as others did in the like Caſe. It is proved by my Lord *Traquair*, and my Lord Treaſurer, and might have been proved by many more, if it had been needful.

For the Words, that I ſhould ſay, *The Rooting out the Scots Root and Branch*, They are only teſtify'd by one ſingle Witneſs; *Salmon* the School-Maſter Swears it, and no Man elſe but he; and, I hope, my Lords, that when your Lordſhips do call to mind, how he is Croſt by his Fellow Witneſs *John Loſtus*, your Lordſhips will be ſatisfied; he Swears I will perſecute them to the Blood, and root them out Root and Branch, and, I cannot tell what, But, *John Loſtus* ſaid indeed, that I ſaid, I hope that ſuch of the Scotiſh Nation, as would not ſubmit to the Eccleſiaſtical Government, I would root out Stock and Branch: a wonderful difference between theſe two. But, my Lords, it was teſtified by Mr. Secretary *Manwaring* then preſent, That I neither ſpoke the one nor the other, but as in my Anſwer I did truly and faithfully deliver it; I ſaid, that unleſs they would take that Oath of Allegiance, and ſecure the King of their Allegiance in that Point, I hope, I ſhould not ſee any of them ſtay in that Kingdom that refuſed it: and, there is no Proof in the World but the School-Maſter; and, I hope, your Lordſhips will not take him to be a

good

good and valid Proof to Convince me in this Caſe, being a Perſon of no greater Quality, and croſſed by his fellow Witneſs: For my ſelf, I do abſolutely ſay, I was ſo far from wiſhing ill to that Nation, or any Diſſention or Diviſion between them, that I never deſired other in my Heart and Soul, but a firm Peace through the King's Dominions: My Counſels tended to that; and, if it might ſeem to begin in a contrary way, yet the laſt reſort was, to bring all to quietneſs, and ſo, that it ſhould be without Blood. And, I dare ſay, there be them that heard me ſay it many a time in the King's Council, That the King ſhould be in nothing ſo much ſparing and tender, as to draw any Blood in the Barrel; I dare ſay, many that heard it will Juſtifie me in it: And, if your Lordſhips will give me leave, I do think I have ſomething that might procure your Lordſhips belief that it was ſo; for, at that time, my Fortune (though now by Misfortune it be mean enough) was ſuch, as I needed not deſire to ſhuffle the Cards, and deal anew; and, eſpecially, when nothing was to be got but Blows: And, that I truſt will be an Argument to your Lordſhips, that nothing was deſired by me ſo much as Peace; and that under God's Goodneſs, and the Protection and Benefit of His Majeſty's Scepter, I might enjoy the little Eſtate my Anceſtors left me; for, it is certainly true, whatever the World may think to the contrary, it is very little better from what my Father left me; ſomething it is, and the moſt part of the Improvement of it was, before I came to ſerve the King; and yet I have had more from the King then I deſerved in all kinds, and all the whole Service of my Life, were it never ſo many Years, could not Merit nor Deſerve from him, the Hundred part of what I had from His Favour.

My Lords, Mr. Treaſurer *Vane* ſays, I was in the Argument for an Offenſive, and he for a Defenſive War, for a War both of us: And, I beſeech your Lordſhips, How ſhould it be more Treaſonable for me, to be for an Offenſive, than for him to be for a Defenſive War? for a War there muſt be, and the difference was not great: and, for a Counſellor to deliver his Opinion, and have that turned upon him as a Capital, to ſweep from the World him and his Poſterity, is a very hard Caſe, to ſay no more of it.

The next *Article* is the 21*th*; wherein I am Charged to be an Enemy to Parliaments; a Breaker of Parliaments; and did, by that means, ſow ill Affections betwixt the King and His People.

My Lords, This is more fully Charged in a Subſequent Article than this; for, this is but only for breaking of the laſt Parliament, that I ſhould adviſe it to be called, with an intent to break it, which is very unlikely; for, that nothing in the World could be of ſo happy effect to me, as the ſucceſs of that Meeting; and yet I muſt deſtroy and diſadvantage my ſelf in that, than which, nothing could be of more advantage than the ſucceſs of that Parliament.

The 22*th Article*, is Anſwered already; and the 23*th* likewiſe.

In the 24*th Article* comes in that of the Parliament more fully; and there I am Charged Falſly, and Treacherouſly, and Maliciouſly, to have declared before His Majeſty's Privy-Council, That the Parliament of *England*

England had forſaken the King, and given him the Advantage to Supply Himſelf otherways; and having ſo Malitiouſly Slandered the ſaid Houſe of Commons, That I did, with the Advice of the Archbiſhop of *Canterbury*, and the Lord *Finch*, Publiſh a Falſe and Traiterous Book, called, *His Majeſty's Declaration of the Cauſes of Diſſolving the laſt Parliament*, &c. This goes very heavy upon me in the World, that I ſhould be a breaker of Parliaments; a Counſellor againſt Parliaments. My Lords, there is nothing proved of it; and I hope I ſhall be cleared by your Lordſhips, and theſe noble Gentlemen, and all the World, that I had no ſuch thing in my heart.

For the Point of the Decleration, I was at that time Sick in my Bed, and could do nothing in it, and therefore truſt I ſhall be acquitted as to that: As to the breaking of the Parliament, or any ill-will to Parliaments, I have ever honour'd them; and, far be it form me to wiſh, that they may not be frequent, for the good of the King and Kingdom; but, as oft as you ſhall have it urged, and preſt againſt me, that I ſhould be an endeavourer to Subvert the Fundamental Laws of the Land in this kind, I beſeech your Lordſhips, call to mind what hath been proved, that at all Publick Debates at Council, and Privately apart, I have humbly repreſented to His Majeſty, from time to time, the Parliaments are the Only Way to Settle him in Quietneſs in the Kingdom, and to acquire Proſperity and Happineſs to Himſelf and his People: And, when you ſhall hear them preſs upon me, that I have endeavoured to Subvert the Fundamental Laws of the Land, I beſeech your Lordſhips to call to mind, how frequently and fervently I have adviſed the King, to call for Parliaments, which, under God, is the Great Protection, and Defence of the Fundamental Laws of the Kingdom.

To the 25*th* I have Anſwered already, and to the 26*th* likwiſe.

The next is the 27*th*; and, for that, I can ſay no more, then that your Lordſhips have heard the Proofes for the Levying of Money; it hath been cleared to your Lordſhips, that nothing was done by me, but by Conſent of the Country, with their Unanimous good liking, and for their benefit and advantage: Being done ſo, and for ſo good ends, as I truſt they ſhall not be enforced againſt me; and, it was very ſtrange to me why it ſhould be expected, that if two Armies be in the Field, one againſt the other (as there was at *York*) that they ſhould be Govern'd with as much quietneſs, as an Atturney walking with his Writs at his Girdle, betwixt the Kings Bench and Common-Pleas.

For, Armies cannot be Govern'd without ſome Latitude in this kind: *Inter arma Silent Leges:* rightly applied, there is the truth in that. But, I did nothing in the Buſineſs, I did nothing by Compulſion, but by the voluntary liking of the Parties themſelves: and therefore, I conceive, that ſhall not be charged upon me as Treaſon.

There remains now the 28*th Article*; and that is the only Bloody *Article*, if it had been, or could be made good, that is in the whole Charge; for there I am Charged, out of ill and wicked purpoſes (and, indeed, What can be worſe than Treaſon) to have Betrayed *Newcaſtle*

into the power of the Scotch Army; and, likewiſe, to have betrayed the King's Army at *Newburn*, to a diſhonourable Retreat.

My Lords, if either of theſe had been true, I ſhould have ſaved your Lordſhips the labour. I would have given Judgment againſt my ſelf, that had been certain: But, my Lords, never was any Man more Innocent, therefore they may very well wave it.

Have I been all this while Charged as an Incendiary? and, Am I now come in the Concluſion to be charged as a Confederate? It is wonderful ſtrange! Certainly your *Articles* fight one againſt another in this; for, How can I be an Incendiary in one part, and a Conſpirator with them that Charged me, to be an Incendiary in the other part.

In good Faith, I have not been very kindly dealt withal by my Confederates, if they be Confederates, to Charge me as an Incendiary, that did them that Service and Help, as to deliver into their hands a Town of ſuch Conſequence as that is.

No, my Lords, I wiſh all happineſs to the Nation; but, I can never wiſh ſo to it, as that they ſhould take one of the King's Towns in *England*, if I could have helped it. My Lords, it was loſt before I had the Charge of the Army, I had nothing to do in the buſineſs, nor am I to give any Accompt of it, nor is any thing proved.

And, as to the Defeat at *Newburn*, you yet fight one Article with another, methinks in that too; for, I am charged to be the Man, that delivered up *Newcaſtle*, and yet all the World knows, that nothing could ſave it from being loſt, but the taking away from the Scots the Paſſages at that time: So, that I ſhould uſe all means to prevent Men from doing that, which I meant to do for them, is very ſtrange to me. Here is no Probability, and certainly little truth in the whole buſineſs, as concerning my Confederating with the *Scots*, either for the one or the other.

And ſo, my Lords, I am come to the end of theſe 28 *Articles*, that were for my further Impeachment; have gone over them all: and, out of theſe now there remains, that other Second Treaſon, that I ſhould be guilty of endeavouring, to Subvert the Fundamental Laws of the Land, in the firſt of thoſe Seven *Articles*.

My Lords, that thoſe ſhould now be Treaſon together, that are not Treaſon in any one part, and Accumulatively to come upon me in that kind; and, where one will not do it of it ſelf, yet woven up with others, it ſhall do it; Under favour, my Lords, I do not conceive, that there is either Statute-Law, or Common-Law, that hath declared this, endeavouring to Subvert the Fundamental Laws, to be High Treaſon.

I ſay, neither Statute-Law, nor Common-Law Written, that I could hear of; and, I have been as diligent to enquire of it as I could be: And, your Lordſhips will believe I had reaſon ſo to do. And, ſure it is a very heard thing, I ſhould be here queſtion'd for my Life and Honor, upon a Law that is not Extent, that cannot be ſhewed. There is a Rule that I have read out of my Lord *Cook*, *Non apparentibus & non exiſtentibus eadem eſt Ratio.*

Jeſu

Jeſu! My Lord, Where hath this Fire lain all this while, ſo many hundred years together, that no Smoak ſhould appear till it burſt out now, to conſume me and my Children? hard it is, and extream hard, in my Opinion, that a Puniſhment ſhould Precede the Promulgation of a Law; that I ſhould be Puniſhed by a Law Subſequent to the Act done. I moſt humbly beſeech your Lordſhips, take that into Conſideration; for, certainly it were better a great deal to live under no Law, but the Will of Man, and Confirm our ſelves in humane Wiſdom, as well as we could; and, to Comply with that Will, then to live under the Protection of a Law, and as we think, and then a Law ſhould be made to puniſh us, for a Crime precedent to the Law: then I conceive no Man living could be ſafe, if that ſhould be admitted.

My Lords, it is hard in an other reſpect, that there ſhould be no Tokens ſet upon this Offence, by which we may know it; no manner of Token given; Admonition by which we might be aware of it. If I paſs down the *Thames* in a Boat, and run and Split my ſelf upon an Anchor, if there be not a Bouy to give me warning, the Party ſhall give me Damages; but if it be marked out, then it is at my own Peril. Now, my Lords, Where is the Mark ſet upon this Crime? Where is the Token by which I ſhould diſcover? If it be not marked, if it lie under-Water, and not above, there is no Humane Providence can prevent the Deſtruction of a Man Preſently and Inſtantly. Let us then lay aſide all that is Humane Wiſdom, let us rely only upon Divine Revelation; for, certainly, nothing elſe can preſerve us, if you will Condemn us before you tell us where the Fault is, that we may avoid it.

My Lords, may your Lordſhips be pleaſed to have that regard to the Peerage of *England*, as never to ſuffer your ſelves to be put upon thoſe Moot-points, upon ſuch Conſtructions, and Interpretations, and Strictneſs of Law, as theſe are, when the Law is not clear nor known: If there muſt be a Tryal of Wits, I do moſt humbly beſeech your Lordſhips to conſider, that the Subject may be of ſomething elſe, then of your Lives and of your Honors.

My Lords, We find, that in the Primative time, on the Sound and Plain Doctrine of the Bleſſed Apoſtles, they brought in their Books of Curious Art, and burnt them.

My Lords, it will be likewiſe, under favour (as I humby conceive) Wiſdom and Providence in your Lordſhips, for your ſelves and poſterities, for the whole Kingdom, to caſt from you into the Fire, thoſe Bloody and Miſterious Volumes, of Conſtructive and Arbitrary Treaſons, and to betake your ſelves to the plain Letter of the Statute, that tells you where the Crime is, that ſo you may avoid it; and let us not, my Lords, be ambitious to be more Learned in thoſe Killing Arts, then our Forefathers were before us.

My Lords, it is now full Two hundred and forty years ſince any Man ever was Touch'd, to this Height upon this Crime, before my ſelf; We have lived, my Lords, happily to our ſelves at Home, we have lived Glorioufly Abroad to the World; let us be content with that

which our Fathers left us, and let us not awake thoſe Sleeply Lyons to our own Deſtruction, by Ratling up of a Company of Records, that have lay'n for ſo many Ages by the Wall, Forgotten, or Neglected.

My Lords, There is this that troubles me extreamly, leaſt it ſhould be my Misfortune to all the reſt (for my other Sins, not for my Treaſons) that my Precedents ſhould be of that Diſadvantage (as this will be, I fear, in the Conſequence of it) upon the Whole KINGDOM.

My Lords, I beſeech you therefore, that you will be pleaſed ſeriouſly to conſider it, and let my particular Caſe be ſo looked upon, as that you do not, through me, Wound the Intereſt of the *Common-Wealth:* For, howſoever thoſe Gentlemen at the Bar ſay, They Speak for the *Common-Wealth*, and they believe ſo; yet, under favour, in this particular, I believe I Speak for the *Common-Wealth* too; and, that the Inconveniences and Miſeries that will follow upon this, will be ſuch, as it will come, within a few years, to that which is expreſt in the Statute of *Henry the Fourth*, it will be of ſuch a Condition, that no Man ſhall know what to do, or what to ſay.

Do not, my Lords, put greater Difficulty upon the Miniſters of State, then that with Chearfulneſs they may Serve the King and the State; for, if you will Examine them by every Grain, or every little Weight, it will be ſo heavy, that the publick Affaires of the Kingdom will be left waſt, and no man will meddle with them, that hath Wiſdom, and Honor, and Fortune to loſe.

My Lords, I have now troubled your Lordſhips a great deal longer, then I ſhould have done; were it not for the Intereſt of thoſe *PLEDGES*, that a Saint in Heaven left me, I would be loth, my Lords——(here his Weeping ſtopt him) what I forfeit for my ſelf if is nothing; but I confeſs, that my Indiſcretion ſhould Forfeit for them, it wounds me very deeply. You will be pleaſed to pardon my Infirmity; ſomething I ſhould have ſaid; but I ſee I ſhall not be able, and therefore I will leave it.

And now, my Lords, for my Self, I thank God I have been, by his Good Bleſſing towards me, taught, *That the Afflictions of this preſent Life, are not to be compared with that Eternal Weight of Glory, that ſhall be Revealed for us hereafter:* And ſo, my Lords, even ſo, with all Humility, and with all Tranquility of Mind, I do ſubmit my ſelf clearly and freely to your Judgments; and, whether that Righteous Judgment ſhall be to Life, or to Death,

Te Deum Laudamus, Te Dominum Confitemur.

THE

THE SPEECH OR DECLARATION Of John Pym, Esq.

MY LORDS,

MAny days have been spent, in maintenance of the impeachment of the Earl of *Strafford*, by the House of Commons, whereby he stands Charged with High Treason; and your Lordships have heard his Defence with Patience, and with as much Favour as Justice would allow. We have passed through our Evidence, and the result of all this is, that it remains clearly proved, That the Earl of *Strafford* hath endeavoured by his Words, Actions, and Counsels, to subvert the Fundamental Laws of *England* and *Ireland*, and to introduce an Arbitrary and Tyrannical Government.

This is the envenomed Arrow for which he inquired, in the beginning of his replication this day, which hath infected all his Blood; This is that intoxicating Cup, (to use his own Metaphor) which hath tainted his Judgment, and poisoned his Heart: From hence was infused that specifical difference, which turned his Speeches, his Actions, his Counsels, into Treason; not *cumulativè*, as he expresst it, as if many misdemeanors could make one Treason; but formally and essentially. It is the end that doth inform Actions, and doth specificate the nature of them, making not only criminal, but even indifferent Words and Actions to be Treason, being done and spoken with a Treasonable intention.

That which is given to me in charge, is to shew the quality of the offence, how hainous it is in the nature, how mischievous in the effect of it, which will best appear, if it be examined by that Law, to which he himself appealed, that Universal, that Supream Law, *Salus populi*: This is the Element of all Laws, out of which they are derived, the end of all Laws, to which they are designed, and in which they are perfected; how far it stands in opposition to this Law, I shall endeavour to shew in some considerations, which I shall present to your Lordships, all arising out of the Evidence which hath been opened.

The

The Firſt is this, It is an offence comprehending all other offences; here you ſhall find ſeveral Treaſons, Murthers, Rapines, Oppreſſions, Perjuries.

The Earth hath a Seminary Virtue, whereby it doth produce all Herbs and Plants, and other Vegitables: There is in this Crime a Seminary of all evils hurtful to a State; and if you conſider the reaſons of it, it muſt needs be ſo: the Law is that which puts a difference betwixt good and evil, betwixt juſt and unjuſt; if you take away the Law, all things will fall into a confuſion, every man will become a Law to himſelf, which in the depraved condition of humane nature, muſt needs produce many great enormities, Luſt will become a Law, and Envy will become a Law, Covetouſneſs and Ambition will become Laws; and what dictates, what deciſions ſuch Laws will produce, may eaſily be diſcerned in the late Government of *Ireland*: The Law hath a Power to prevent, to reſtrain, to repair evils; without this, all kind of miſchief and diſtempers will break in upon a State.

It is the Law that doth entitle the King, to the Allegiance and Service of his People; it entitles the People to the Protection and Juſtice of the King. It is God alone who ſubſiſts by himſelf, all other things ſubſiſt in a mutual dependence, and relation. He was a wiſe Man that ſaid, that the King ſubſiſted by the field that is tilled: it is the labour of the People that ſupports the Crown: If you take a way the protection of the King, the vigor and cheerfulneſs of Allegiance will be taken away, though the obligation remain.

The Law is the boundary, the meaſure, betwixt the King's Prerogative, and the Peoples Liberty; whilſt theſe move in their own Orbs, they are a ſupport and a ſecurity to one another; the Prerogative a cover and defence to the Liberty of the People, and the People by their Liberty are enabled to be a foundation to the Prerogative, but if theſe bounds be ſo removed, that they enter into conteſtation and conflict, one of theſe miſchiefs muſt enſue: If the Prerogative of the King overwhelm the Liberty of the People it will be turned into Tyranny; if Liberty undermine the Prerogative, it will grow into Anarchy.

The Law is the ſafeguard, the cuſtody of all private Intereſt, your Honors, your Lives, your Liberties, and Eſtates, are all in the keeping of the Law; without this, every man hath a like right to any thing, and this is the condition into which the *Iriſh* were brought by the Earl of *Strafford*: And the reaſon which he gave for it, hath more miſchief in it, than the thing it ſelf, *they were a conquered Nation.* There cannot be a word more pregnant an fruitful in Treaſon, than that word is, There are few Nations in the world, that have not been conquered, and no doubt but the Conqueror may give what Law he pleaſes to thoſe that are conquered: but if the ſucceeding pacts, and agreements, do not limit and reſtrain that Right, What People can be ſecure? *England* hath been conquered, and *Wales* hath been conquered, and by this reaſon, will be in little better caſe than *Ireland*, if the King, by the right of a Conqueror, gives Laws to his People; ſhall not the People by the ſame reaſon, be reſtored to the right of the Conquered, to recover their Liberty if they

they can? What can be more hurtful, more pernicious to both, than ſuch propoſitions as theſe? And in theſe particulars is determined the firſt Conſideration.

The Second Conſideration it this; The Arbitrary Power is dangerous to the King's Perſon, and dangerous to his Crown: it is apt to cheriſh Ambition, Uſurpation, and Oppreſſion in great men, and to beget Sedition and Diſcontent in the People; and both theſe have been, and in reaſon muſt ever be, cauſes of great trouble and alteration to Princes and States.

If the Hiſtories of thoſe Eaſtern Countries be purſued, where Princes order their Affairs according to the miſchievous Principles of the Earl of *Strafford*, looſe and obſolved from all rules of Government, they will be found to be frequent in Cumbuſtions, full of Maſſacres, and of the tragical ends of Princes. If any man ſhall look into their own ſtories, in the times when the Laws were moſt neglected, he ſhall find them full of commotions, of civil diſtempers; whereby the Kings that then Reigned, were always kept in want and diſtreſs; the People conſumed with Civil Wars; and by ſuch wicked Counſels as theſe, ſome of our Princes have been brought to ſuch a miſerable ends, as no honeſt heart can remember, without horror and earneſt Prayer, that it may never be ſo again.

The Third Conſideration is this, The Subverſion of the Laws; and this Arbitrary Power, as it is dangerous to the King's Perſon, and to his Crown, ſo is it in other reſpects, very prejudical to his Majeſty in his Honor, Profit, and Greatneſs; and yet theſe are the Gildings and Paintings that are put upon ſuch Counſels; theſe are for your Honor, for your Service; whereas in truth they are contrary to both: But if I ſhall take of this varniſh, I hope they ſhall then appear in their own Native deformity; and therefore I deſire to conſider them by theſe Rules.

It cannot be for the Honor of the King, that his Sacred Authority ſhould be uſed in the Practiſe of Injuſtice and Oppreſſion; That His Name ſhould be applied to patronize ſuch horid crimes, as have been repreſented in Evidence againſt the Earl of *Strafford*; and yet how frequently, how preſumptuouſly his Commands, his Letters, have been vouched throughout the courſe of this Defence? your Lordſhips have heard, when the Judges do Juſtice, it is the King's Juſtice, and this is for his Honor, becauſe he is the fountain of Juſtice: But when they do Injuſtice, the offence is their own; but theſe Officers and Miniſters of the King, who are moſt Officious in the exerciſe of this Arbitrary Power, they do it commonly for their advantage, and when they are queſtioned for it, then they fly to the King's Intereſt, to his Direction: And truly my Lords, this is a very unequal diſtribution for the King, that the diſhonor of evil courſes ſhould be caſt upon him, and they to have the advantage.

The prejudice which it brings to him in regard of his profit, is no leſs apparent, it deprives him of the moſt beneficial, and moſt certain Revenue of his Crown, that is, The voluntary Aids and Supplies of his People; His other Revenues, conſiſting of goodly Demeans, and great Mennors have by Grants been alienated from the Crown, and are now exceedingly diminiſhed and impaired: But this Revenue, it cannot be ſold, it cannot be burdened with any Penſions or Annuities, but comes intirely

tirely to the Crown. It is now almoſt Fifteen years ſince His Majeſty had any aſſiſtance from his People; and, theſe illegal ways of the ſupplying the King were never preſt with more Violence and Art, then they have been in this time; and yet I may, upon very good grounds, affirm, That in the laſt Fifteen years of Queen *Elizabeth*, She received more, by the Bounty and Affection of Her Subjects; then hath come to his Majeſty's Coffers, by all the inordinate and rigorous courſes which have been taken. And, as thoſe Supplies were more beneficial, in the Recepit of them, ſo were they like in the uſe and imployment of them.

Another way of Prejudice to his Majeſty's profit, is this: Such Arbitrary courſes Exhauſt the People, and diſable them, when there ſhall be occaſion, to give ſuch plentiful Supplies, as otherwiſe they would do. I ſhall need no other proof of this, then the *Iriſh* Government under my Lord of *Strafford*, where the Wealth of the Kingdom is conſumed, by thoſe horrible Exactions and Burdens, that it is thought, the Subſidies lately granted, will amount to little more than half the porportion of the laſt Subſides. The two former ways are hurtful to the King's profit, in that reſpect which they call *Lucrum Ceſſans*, by diminiſhing his Receipts; But there is a third more fuller of miſchief; and, it is in that reſpect, which they call *Damnum emergens*, by increaſing his Disburſements, ſuch irregular and exhorbitant attemps upon the Liberties of the People, are apt to produce ſuch miſerable Diſtractions and Diſtempers, as will put the King and Kingdoms to ſuch vaſt Expences and Loſſes in a ſhort time, as will not be recovered in many years: We need not go far to ſeek a proof of this, theſe two laſt years will be a ſufficient Evidence, within which time I aſſure my ſelf, it may be proved, that more Treaſure hath been waſted, more loſs ſuſtained by His Majeſty and His Subjects, then was ſpent by Queen *Elizabeth* in all the War of *Tyron*, and in thoſe many brave Attempts againſt the King of *Spain*, and the Royal Aſſiſtance which ſhe gave to *France*, and the low Countries, during all Her Reign.

As for greatneſs, this Arbitrary Power is apt to hinder and impair it, not only at home, but abroad. A Kingdom is a Society of men conjoyned under one Govenment, for the Common good: The World is a Society of the Kingdoms and States. The King's Greatneſs conſiſts not only in His Dominion over His Subjects at home, but in the Influence which he hath upon States abroad; That he ſhould be great even among Kings, and by his Wiſdom and Authority, ſo to incline and diſpoſe the Affairs of other States and Nations, and thoſe great Events which fall out in the World as ſhall be for the good of Mankind and for a peculiar advantage of his own People. This is the moſt glorious, and magnificent greatneſs, to be able to relieve diſtreſſed Princes, to ſupport his own Friends and Allies to prevent the Ambitious Deſigns of other Kings; and, how much this Kingdom hath been impaired in this kind, by the late miſchievious Counſels, your Lordſhips beſt know; who, at a near diſtance, and with a more clear ſight, do apprehend theſe publick and great affairs, then I can do. Yet thus much I dare boldly ſay, that if his Majeſty had not, with great Wiſdom and Goodneſs, forſaken that way, wherein the Earl of *Strafford* had put him, we ſhould, within a ſhort time, have been brought into that miſerable condition, as to have been uſeleſs to our Friend, contemptible to our Enemies, and uncapable of undertaking any great Deſign, either at home or abroad.

A fourth conſideration is, That this Arbitrary and Tyrannical Power, which the Earl of *Strafford* did exerciſe with his own Perſon, aud to which he did adviſe His Majeſty, is inconſiſtent with the Peace, the Wealth, the Proſperity of a Nation; It is a deſtructive to Juſtice, the Mother of Peace; to Induſtery, the ſpring of Wealth; to Valour, which is the Active Virtue, whereby the proſperity of a Nation can only be procured, confirmed, and enlarged.

It's not only apt to take away Peace, and ſo intangle the Nation with Wars, but doth corrupt Peace, and puts ſuch a malignity into it, as produceth the Effects of War. We need ſeek no other proofs of this, but the Earl of *Strafford*'s Government, where the *Iriſh*, both Nobility and others, had as little ſecurity of their Perſons or Eſtates in this peaceable time, as if the Kingdom had been under the rage and fury of War.

And as for Induſtery and Valour, who will take pains for that which when he hath gotten, is not his own? or who fight for that wherein he hath no other intereſt, but ſuch as is ſubject to the Will of another? The antient encouragement to men, that were to defend their Countries, was this, That they were to hazard their Perſon, *pro Aris & focis*, for their Religion and for their Houſes; but by this Arbitrary way which was practiſed in *Ireland*, and counſelled here; no man had any certainty, either of Religion, or of the Houſe, or any thing elſe to be his own; But beſides this, ſuch Arbitrary courſes have an ill operation upon the courage of a Nation, by embaſing the hearts of the People: A ſurvile condition does for the moſt part beget in men a ſlaviſh temper and diſpoſition. Thoſe that live ſo much under the Whip, and the Pillory, and ſuch ſervile Engines, as were frequently uſed by the Earl of *Strafford*, they may have the dregs of valour, ſullenneſs and ſtubborneſs, which may make them prone to mutinies and diſcontents; but thoſe noble and gallant affections which put men to brave deſigns and attempts for their preſervation or enlargement of a Kingdom, they are hardly capable of. Shall it be Treaſon to embaſe the King's Coin, though but a piece of Twelvepence, or Six-pence? and muſt it needs be the effect of a greater Treaſon, to embaſe the Spirit of his Subjects, and to ſet up a ſtamp and character of ſervitude upon them, whereby they ſhall be diſabled to do any thing for the ſervice of the King and Common-wealth?

The fifth Conſideration is this, that the exerciſe of this Arbitrary Government in times of ſudden danger, by the invaſion of an Enemy, will diſable His Majeſty to preſerve himſelf and His ſubjects from that danger. This is the only pretence by which the Earl of *Strafford*, and ſuch other miſchievous Counſellors, would induce His Majeſty to make uſe of it; and if it be unfit for ſuch an occaſion, I know nothing that can be alleadged in maintainance of it.

When War threatens a Kingdom by the coming of a Forreign Enemy, it is no time then to diſcontent the People, to make them weary of the preſent Government, and more inclinable to a change; this ſupplies which are to come in this way, will be unready, uncertain, there can be no aſſurance of them, no dependance upon them, either for time or proportion: And if ſome Money be gotten in ſuch a way, the diſtractions, diviſions, diſtempers, which this courſe is apt to produce will be more prejudicial

to the publick ſafety, than the ſupply can be advantagious to it, and of this we have had ſufficient experience the laſt Summer.

The Sixth, That this crime of ſubverting the Laws, and introducing an Arbitrary and Tyrannical Government, is contrary to the Pact and Covenant betwixt the King and his People; that which was ſpoken of before, was the legal union of Allegience and Protection; this is a perſonal union by mutual agreement and ſtipulation, confirmed by Oath on both ſides: The King and his People are obliged to one another in the neareſt relations, he is a Father and a Child, he is called in Law *pars patriæ*: He is the Husband of the Common-wealth, they have the ſame intereſts they are inſeperable in their Condition, be it good or evil; he is the Head they are the Body; there is ſuch an incorporation as cannot be diſſolved without the diſtruction of both.

When Juſtice *Thorp* in *Edward* the III. time, was by the Parliament condemned to death for Bribery, the reaſon of that Judgment is given, becauſe he had broke the King's Oath, not that he had broke his own Oath, but he had broken the King's Oath, that ſolemn and great Obligation, which is the ſecurity of the whole Kingdon: If for a Judge to take a ſmall ſum, in a private Cauſe, was adjudged capital, how much greater was this offence whereby the Earl of *Strafford* hath broken the King's Oath in the whole courſe of his Governmen in *Ireland*, to the prejudice of ſo many of His Majeſty's Subjects in their Lives, Liberties, and Eſtates, and to the danger of all the reſt?

The Doctrine of the Papiſts *Fides non eſt ſurvandâ cum Hæreticis*, is an abominable Doctrine; yet that other Tenet, more peculiar to the Jeſuits, is more prenicious, whereby Subjects are diſcharged from their Oath of Allegiance to their Prince, whenſoever the Pope pleaſeth; This may be added to make the Third no leſs miſchievous and diſtructive to humaine Society, then either of the reſt. That the King is not bound by that Oath which he hath taken, to obſerve the Laws of the Kingdom, but may when he ſees cauſe, lay taxes and burthens upon them without their conſent, contrary to the Laws and Liberties of the Kingdom, This hath been Preached and Publiſhed by divers; And this is that which hath been practiſed in *Ireland* by the Earl of *Strafford*, in his Government there, and endeavoured to be brought into *England*, by his Counſel here.

The Seventh is this; It is an offence that is contrary to the end of Government; The end of Government was the preſent oppreſſions; to limit and reſtrain the exceſſive power and violence of great men, to open the paſſages of Juſtice with indifferency towards all; This Arbitrary Power is apt to induce and encourage all kind of inſolences.

Another end of the Government, it to preſerve men in their Eſtates, to ſecure them in their Lives and Liberties; but if this deſign had taken effect, and could have been ſetled in *England*, as it is practiſed in *Ireland*, no man would have had more certainty in his own, then Power would have allowed him; but theſe two have been ſpoken of before; there are two behind more impotant, which have not yet been touched.

It

It is the end of Government, that Virtue ſhould be cheriſh'd, Vice ſuppreſt; but where this Arbitrary and unlimited Power is ſet up, a way is open not only for the ſecurity, but for the advancement and encouragement of evil; ſuch men are apt for the execution and maintainance of this Power, are only capable of preferment; and others who will not be inſtruments of any unjuſt commands, who make a conſcience to do nothing againſt the Laws of the Kingdom, and Liberties of the Subjects, are not only not paſſable for imployment, but ſubject to much jealouſie and danger.

It is the end of Government, that all Accidents and Events, all Counſels and Deſign ſhould be improved to the publick good: But this Arbitrary Power is apt to diſpoſe all, to the maintainance of it ſelf. The wiſdom of the Coucil-Table; the authority of the Courts of Juſtice; The induſtry of all the Officers of the Crown, have been moſt carefully exerciſed in this; the Learning of our Divines, the Juriſdiction of our Biſhops have been moulded and diſpoſed to the ſame effect, which though it were begun before the Earl of *Strafford*'s implopyment, yet it hath been exceedingly furthered and advanced by him.

Under this colour and pretence of maintaining the King's Power and Prerogative, many dangerous practiſes againſt the peace and ſafety of the Kingdom, have been undertaken and promoted. The increaſe of Popery, and the favours and encouragement of Papiſts have been, and ſtill are a great grievance and danger to the Kingdom: The invocation, in matters of Religion, upon Uſrpations of the Clergy, the manifold burthens and taxations upon the People, have been a great cauſe of our preſent diſtempers and diſorders; and yet thoſe who have been chief furthers and actors of ſuch miſchiefs, have had their Credit and Authority from this; that they were forward to maintain this power. The Earl of *Strafford* had the firſt riſe of his Greatneſs from this; and his Apology and Defence, as your Lordſhips have heard, this hath had a main part.

The Royal Power and Majeſty of Kings is moſt Glorious in the Proſperity and happineſs of the People; The perfection of all things conſiſt in the end, for which they were ordained, God only in his own end, all other things, have a further end beyond themſelves, in attaining whereof, their own happineſs conſiſts: if the means and the end be ſet in oppoſition to one another, it muſt needs cauſe an impotency and defect of both.

The Eighth Conſideration, is the vanity and abſurdity of thoſe excuſes and juſtifications, which he made for himſelf, whereof divers particulars have been mentioned in the courſe of this Defence.

1. That he is a Counſellor, and might not be queſtioned for any thing which he adviſed according to his Conſcience; The ground is true, there is a liberty belongs to Counſellors, and nothing corrupts Counſels more than fear; He that will have the priviledge of a Counſellor, muſt keep within the juſt bounds of a Counſellor; thoſe matters are the propper ſubjects of Counſel, which in their times and occaſions may be good or beneficial to the King or common-wealth; but ſuch Treaſons as theſe, the ſubverſion of the Laws, violation of Liberties, they can never be good

or juſtifiable by any circumſtance, or occaſion; and therefore his being a Counſellor, makes his fault much more hainous, as being committed againſt a greater Truſt, and in a way of much Miſchief and Danger, leaſt His Majeſty's Conſcience and Judgment (upon which, the whole courſe and frame of His Government, do much depend) ſhould be poiſoned and infected with ſuch wicked Principles and Deſigns: And this he hath endeavoured to do, which by all Laws, and in all Times hath in this Kingdom been reckoned a Crime of a high Nature.

2. He labours to intereſt your Lordſhips in his Cauſe, by alledging it may be dangerous to your ſelves, and your poſterity, who by your Birth are fitteſt to be near His Majeſty, in places of Truſt of Authority, if you ſhould be ſubject to be queſtioned for matters delivered in Council. To this was Anſwered, That it was hoped their Lordſhips would rather labour to ſecure themſelves, and their poſterity, in the exerciſe of their Virtues, than of their Vices, that ſo they might, together with their own Honor and Greatneſs, preſerve the Honor and Greatneſs, both of the King and Kingdom.

3. Another excuſe was this, That whatſoever he hath ſpoken, was out of good intention. Sometimes good and evil, truth and falſhood, lye ſo near together, that they are hardly to be diſtinguiſhed: Matters hurtful and dangerous, may be accompanied with ſuch circumſtances, as may make it appear uſeful and convenient, and in all ſuch caſes, good intention will juſtify evil Counſel; But where the matters propounded are evil in their own nature, ſuch as the matters are, wherewith the Earl of *Strafford* is charged, to break a publick Faith, to ſubvert Laws and Government: they can never be juſtied by any intentions, how good ſoever they be pretended.

4. He alledgeth it was a time of great neceſſity aud danger, when ſuch Counſels were neceſſary for preſervation of the State. Neceſſity hath been ſpoken of before, as it relates to the Cauſe; now it is conſidered as it relates to the Perſon; if there were any neceſſity, it was of his own making; he by his evil Counſel had brought the King into a neceſſity, and by no rules of Juſtice can be allowed to gain this advantage by his own fault, as to make that a ground of his Juſtification which is a great part of his offence.

5. He hath often inſinuated this, that it was for his Majeſty's ſervice, in maintenance of that Sovereign Power, with which he is intruſted by God, for the good of his People. The Anſwer is this, No doubt but that Sovereign Power wherewith his Majeſty is intruſted for the publick good, hath many glorious effects, the better to enable him thereunto; but without doubt, this is none of them, that by his own Will, he may lay any Tax or Impoſition upon his People, without their conſent in Parliament. This hath now been five times adjudged by both Houſes, in the Caſe of the Loans, in condemning Commiſſions of Exciſe, in the reſolution upon the ſaving offered to be ſaved to the Petition of Right, in the Sentence againſt *Manwaring*, and now *Lutell*, in condemning the Ship-money; And if the Sovereign Power of the King, can produce no ſuch effect at this, the Allegation of it is an aggravation, and no diminution of his offence, becauſe thereby he doth labour to intereſt the King againſt the juſt grievance and complaint of the People.

6. This

6. This Counſel was propounded with divers Limitations and Proviſions, for ſecuring and reparing the *Liberty* of the People. This implies a contradiction to maintain an Arbitrary and Abſolute Power, and yet to reſtrain it with *Limitations* and Proviſions, for even thoſe limitations and proviſions, will be ſubject to the ſame abſolute power, and to be diſpenſed in ſuch manner, and at ſuch time, as it ſelf ſhall determine; let the Grievances and Oppreſſions be never ſo heavy, the Subject is left without all remedy, but at his Majeſty's own pleaſure.

7. He alledgeth, They were but Words, and no effect followed; this needs no Anſwer: But, that the Miſerable Diſtempers into which he hath brought all the three Kingdoms, will be Evidence ſufficient, that his Wicked Counſels, have had ſuch Miſchievous effects within theſe two or three laſt years, that may years Peace will hardly repair thoſe loſſes, and other great Miſchiefs which the Common-wealth hath ſuſtained.

8. Theſe Excuſes have been collected out of the ſeveral Parts of his defence, perchance ſome others are omitted, which I doubt not have been Anſwerd by ſome of my Collegues, and are of no Importance, either to perplex or to hinder your Lordſhips Judgment touching the hainouſneſs of this Crime.

The *9th* conſideration is this, That if this be Treaſon, in the Nature of it, it doth exceed all other Treaſons in this, That in the Deſign and Endeavour of the Author, it was to be a conſtant and permanent Treaſon; other Treaſons are Tranſient, as being confined within thoſe particular Actions and Proportions, wherein they did conſiſt, and thoſe being paſt, the Treaſon ceaſeth.

The Powder Treaſon was full of horror and maglignity, yet it is paſt many years ſince: The Murder of that Magnanimous and Glorious King, *Henry* the Fourth of *France*, was a great and horrid Treaſon; and ſo were thoſe manifold Attempts againſt Queen *Elizabeth* of bleſſed Memory; but, they are long ſince paſt; the Deteſtation of them only remains in Hiſtories, and in the Minds of men, and will ever remain: But, this Treaſon, if it had taken effect, was to be a ſtanding perpetual Treaſon, which would have been in continual Act, not determined within one Time or Age, but tranſmitted to Poſterity, even from one Generation to another.

The *10th* Conſideration is this, That as it is a Crime odious in the Nature of it, ſo it is odious in the Judgment and Eſtimation of the Law: To alter the ſetled Frame and Conſtitution of Government, is Treaſon in any ſtate. The Laws, whereby all other parts of a Kingdom are preſerved, ſhould be very vain and defective, if they had not a power to ſecure and preſerve themſelves.

The Forfeitures inflicted for Treaſon, by our Law, are of Life, Honor and Eſtate, even all that can be forfeited; and this Priſoner having committed ſo many Treaſons, although he ſhould pay all theſe forfeitures, will be ſtill a Debtor to the Common-wealth: nothing can be more equal, then that he ſhould periſh by the Juſtice of that Law, which he would have ſubverted; neither will this be a new way of Blood, There are Marks enough to trace this

Law

Law to the very Original of this Kingdom: and if it hath not been put in Execution, as he alleadgeth, this 240 years, it was not for want of Law, but, that all that time hath not bred a man, bold enough to commit ſuch Crimes as theſe; which is a circumſtance, much aggravating his Offence, and making him no whit leſs liable to puniſhment, becauſe he is the only Man, that in ſo long a time hath ventured upon ſuch a Treaſon as h is.

It belongs to the Charge of another, to make it appear to your Lordſhips, that the Crimes and Offences proved againſt the Earl of *Strafford*, are High-Treaſon by the Laws and Statutes of this Realm, whoſe Learning and other Abilities are much better for that Service: But, for the time and manner of performing this, we are to reſort to the Direction of the Houſe of Commons, having in this, which is already done, diſpatched all thoſe Inſtructions which we have received; and, concerning further Proceedings for clearing all Queſtions and Objections in Law, your Lordſhips will hear from the Houſe of Commons in Convenient time.

THE ARGUMENT

Of Mr. LANE,

The PRINCES

ATTORNY-GENERAL,

On the Behalf of the

Earl of STRAFFORD,

In Point of Law.

MY Lords, I ſhall not at all touch the Matter of Law, further than to clear your Judgments of one Statute only, *viz.* 25 *E.* 3. becauſe when the ſame was Alleadged by the Lord *Strafford*, in his own Defence, that not being Convict of the Letter thereof, he could not be Convict of Treaſon: Remember the Salvo of the Statute was much inſiſted upon, by thoſe from the Houſe of Commons, and as much conducing to their Ends. My Lords, I will firſt ſpeak of the Statute it ſelf, and then of it's Salvo or Proviſion. The Statute is, That if any Man ſhould Intend the Death of the King, His Queen, their Children; kill the Chancellor, or Judge upon the Bench, imbaſe the King's Coyn, or Counterfeit the Broad-Seal, *&c.* he ſhall be Convict, and Puniſht as a Traytor: That the Lord *Strafford* comes not within the Letter of this Statute, is not ſo much as once alleadged, nor indeed it cannot be with any Reaſon; All that can be ſaid, is, That by Relation, or by Argument (*à Minore ad Majus*) he may be drawn into it; yet, that this cannot be, I humbly offer theſe Conſiderations.

Firſt, This is a Declarative Law, and ſuch are not to be taken by way of Conſequence, Equity, or Conſtruction, but by the Letter only; otherwiſe they ſhould imply a Contradiction to themſelves, and be no more Declarative Laws, but Laws of Conſtruction, or Conſtructive.

Secondly,

Secondly, This is a Penal Law, and ſuch (if our Grounds, hitherto unqueſtion'd, hold good) can admit of no Conſtructions, or Inferences: for Penalties are to perſwade the Keeping of Kown Laws, not of Laws Conjectural, Ambitious, and by Conſequence (which perhaps the moſt Learned may not, in their Diſputes, queſtion, much leſs the Subject (who is not obliged to Interpet the Statute) doubt of, in the Point of Obedience; yea, rather, without any doubt, he is rather to obey the Letter of the Statute, and conceive (and that truly) that he is not liable to the Penalty.

Thirdly, We have a Notable Law, 13 *Eliz. cap.* 2. whereby it is declared, That the briming in of Bulls from *Rome*, to ſtir up the Subject to Mutiny and Rebellion, ſhall be puniſhed as Treaſon: Now if by Interpretation, or by Conſequence, this Sence might have been thruſt upon the Proceeding Statutes, the making of this had been ſuperfluous; yea, the Perſon then Charged with that Crime, might have been impeached of Treaſon, even before the making of this Act.

Anno 21 *Edw.* 3. We have a Statute, declaring, That for a Servant to Kill his Maſter, is an Act of Treaſon; and in the 23*th* year of the ſame King a Proceſs of Treaſon was framed againſt a Man for Killing his Father grounded upon the ſame Argument *à Minore ad Majus*: But, it was found, and the Sentence is yet in Records, that although in the 21*th* year of *Edward* the Third, that Argument might have been admitted, yet in the 27*th* it could not, by Reaſon of the Declarative Law, Intervening in the 25*th* year; and, this Caſe comes very home to the Point in Law.

My Lords, I will not demand, What kind of Offence it may be, for a Man to Subvert the Fundamental Laws of the Kingdom? the Crime, doubtleſs is Unnatural and Monſtrous, and the Puniſhment muſt keep the ſame Proportion; only I Preſume to Offer theſe few things to your Lordſhips Conſideration.

1. That one, or more Acts of Injuſtice, whether Malitiouſly or Ignotantly done, can, in no ſence of Law, be called, The Subverſion of the Fundamental Laws; if ſo, as many Judges (perhaps) ſo many Traytors; 'tis very Incident to Man's Nature to err; nor doth the Lord *Strafford* plead his Innocency in Overſights, but in Treaſon.

2. I do Remember the Caſe of *John de la Pole* Duke of *Suffolk*; this Man, in the 28*th* of *Henry* the Sixth, was Charged by the Houſe of Commons with Articles of Treaſon, and thoſe too very like to theſe againſt my Lord *Strafford*.

I. That he had given the King bad Advices.

II. That he had Embaſed His Coyn.

III. That he had Seſſed Men of War.

IV. That he had given out Summary Decrees.

V. That

V. That he had impoſed Taxes.

VI. That he had corrupted the Fountain of Juſtice.

VII. That he had perſwaded the King to Unneceſſary War, and the giving over of *Anjou* in *France*.

And, for all theſe, though he was charged with High Treaſon, for wronging the Right of the Subject, and Subverting the Fundamental *Laws* of the Kingdom, yet, after a long agitation, the Matter was found, by the *Lords* of the Parliament, not to imply Treaſon, but only Felony: Add to this another, who, in the 23*d* of *Henry* the Eighth, was charged for Subverting the Engliſh *Laws*, and yet no Treaſon charg'd upon him. Add to both, the Charge of *Richard Larkes*, Pleaded at the *Common-Pleas*, who was charged with Treaſon, for Subverting the *Law*, but Convicted only of Felony: By which you may ſee, my *Lords*, what to this time hath been Subverting the *Laws*.

3. It is very conſiderable, That the *Lord Strafford* is not charged to have Subverted, but only to have intended to Subvert the Fundamental *Laws*; and this, I conceive, if there were no more, might keep him free from that Statute the 25*th* of *Edward* the Third. For, although, as touching the King, his Queen and Children, Intention is Treaſonable; yet, in all other things there mentioned, there muſt be Action beſides Intention: for, it is not ſaid, If a Man do intend to kill a Chancellor, it ſhall be Treaſon, but if he doth kill him, and if he doth actually Counterfeit the Broad Seal: And, although a Man ſhould prepare a Furnace, make ready his Stamp, melt his Bullion, yet if he gives not the King's Impreſſion upon the Coin, all his Intentions, yea, his Preparations will not ſerve to make up a Treaſon.

Ye ſee therefore my Lords, that the Body of the Statute cannot ſtick againſt the Lord *Strafford*, neither in Letter nor Conſequence; this is not, that muſt not be: All that can be ſaid, is, That the Fact may be Treaſon by the Common Law. For my part, I profeſs my Ignorance, who ever thought the Common Law might declare, but never make a Treaſon; it might be preſuppoſed, that there is a Statute whereupon to build a Declaration; and therefore, to ſay there is no Statute for it, it is to ſay, It is no Treaſon at all: the Statute ever makes the Treaſon, and to be declared Treaſon, either by Common Law, or by Parliament, are but two different ways of Proceedings, and muſt both reſolve into one Principle; nay, and which comes home to the Point, in the 21 of *Edward* the Third; To kill a Man employed in the King's War, was Treaſon: and, the 23*d*, to kill the King's Meſſenger was Treaſon, by Declaration of the Common Law, but always by reaſon of the Statute; yet none of theſe are Treaſons, but Felonies only, becauſe of the intervening Statute of the 25*th* of *Edward* the Third; ſuch hath ever been thought the force of its Letter and Declaration: and ſo I will leave it, and a word or two of the *Salvo*, which is this, That becauſe all Particulars could not be enumerated, therefore what the Parliament ſhould declare to be Treaſonable in time to come, ſhould be puniſhed as a Treaſon.

And according to this Reſervative, in the Eighth year of King *Richard* the Second, one charged before the *Kings Bench*, was afterwards referred to the Parliament; and there, though the Fact was not contained in the Body of the Statute, yet becauſe of the Proviſo afore-mentioned, it was adjudged Treaſon.

In the 11th year of the ſame King, the Duke of *Ireland*, and *Nevill* Archbiſhop of *York*, were impeached of High-Treaſon by *Glouceſter*, *Arundel* and *Warwick*, and, notwithſtanding the Statute, were convicted thereof by the *Salvo*; but, in the 12 of the ſame *Richard* the Second, the Tide turned, and the King had ſuch a Hand with the Parliament, that the Sentence was Recalled, and thoſe Three Noblemen themſelves were adjudged Traytors; again in the 1 of *Henry* the Fourth his Succeſſor, that Revocation of the 21 *Richard* the Second was Repealed, and the Sentence of the 11th of his Reign eſtabliſhed: Such were the toſſings too and fro of Treaſon, and all becauſe of that uncertain Proviſo.

Therefore it was, that in the ſame Parliament, the firſt of *Henry* the Fourth, a Petition was preferred by the Nobility, to have Treaſon limited within ſome Statute; Becauſe they knew not what to ſpeak, or what to do for fear thereof: And, in *Chap.* 10. an Act was made upon this Petition, That the *Salvo* ſhould be holden Repealed in all times to come, and nothing eſteemed Treaſon, but what was literally contained in the 25th of *Edward* the Third. And therefore it is ſaid in the Records, That there was great Joy at the making of this Act; in that the drawn Sword, hanging over every Man's head, by this ſlender Thread of a Conſequence or Illation, was removed by that Act. Add to this, that in the firſt of Queen *Mary*, *cap.* 1. the ſame is Repeated, That no Man ſhall be puniſhed in Life or Eſtate, as a Traytor, but for the Crime contained in the Statute of 25 *Edward* the Third, without the leaſt mention of the pretended *Salvo*.

The Earl of *Northumberland*'s Caſe comes nigh to the Point, he was charged with Treaſon the fifth of *Henry* the Fourth, and if the Statute of the firſt of *Henry* the Fourth, *chap.* 10. whereby this Proviſo is Repealed, had not intervened, no doubt he had been Condemned of Treaſon; but, he was only Convict of Felony, and that becauſe he could not be drawn within the Letter of the Statute of the twenty fifth of *Edward* the Third. And, I dare confidently ſay it, that ſince that Act was made, the firſt of *Henry* the Fourth, *chap.* 10. whereby the Proviſo is Repealed, no man hath ever been declared a Traytor, either by King or Parliament, except it were upon that, or ſome other Statute literally and declaratively taken. Theſe two Things I do offer to your Lordſhips Conſiderations, That the Lord *Strafford* cannot be Impeached of Treaſon, by the Statute of the Twenty fifth of *Edward* the Third; and, that the *Salvo*, contained in the ſame, ſtands Repealed, almoſt Two hundred years ago. And this is all, I conceive, to be neceſſary for that Statute, which was alledged by the Lord *Strafford*, in his Defence, for Matter of *Law*.

The Recorder ſaid, He would add nothing to what the former Counſel had ſpoken, for Matter of *Law*; but if their Lordſhips would ſtate unto him any further Queſtions, he was ready to give his Reſolution according to his beſt Ability.

Mr.

Mr. St. JOHN's

ARGUMENT

OF

LAW:

CONCERNING

The Bill of Attainder,

April the 29th, 1641.

MY Lords, The Knights, Citizens, and Burgeſſes of the Commons Houſe of Parliament, have paſſed a Bill, for the Attainting of *Thomas* Earl of *Strafford* of High-Treaſon. The Bill hath been tranſmitted from them to your Lordſhips; it concerns not him alone, but your Lordſhips and the Commons too, though in different reſpects.

It concerns his Lordſhip the higheſt that can be in the Penal Part; ſo it doth, on the other ſide, as highly concern your Lordſhips and the Commons, in that which ought to be tendreſt, the Judicatory within that, that Judge not them who Judge him, and in that which is moſt Sacred amongſt Men, the Publick Juſtice of the Kingdom.

The King is to be accounted unto, for the loſs of the meaneſt Member, much more of one ſo near the Head.

The Commons are concerned in their Account for what is done, your Lordſhips in that which is to be done.

The buſineſs therefore of the preſent Conference, is to acquaint your Lordſhips with thoſe things, that ſatisfied the Commons in Paſſing of this

Bill; ſuch of them as have come within my Capacity, and, that I can remember, I am Commanded from the Commons at this time, to preſent unto your Lordſhips.

My Lords, in Judgment of greateſt Moment, there are but Two ways for ſatisfying thoſe, that are to give them; either the *Lex lata*, the Law already eſtabliſhed, or elſe the uſe of the ſame Power for making new Laws, whereby the old at firſt received life.

In the firſt Conſideration of the ſetled Laws, in the degrees of Puniſhment, the Poſitive Law, received by General Conſent, and for the Common Good, is ſufficient, to ſatisfy the Conſcience of the Judge, in giving Judgment according to them.

In ſeveral Countries, there is not the ſame meaſure of Puniſhment, for one and the ſame Offence; Wilful Murder in *Ireland* it is Treaſon, and ſo is the wilful Burning of a Houſe, or a Stack of Corn: In the Iſle of *Man* it is Felony to Steal a Hen, but not to Steal a Horſe; and yet the Judge in *Ireland*, hath as juſt a Ground to give Judgment of High-Treaſon in thoſe Caſes there, as here to give Judgment only of Felony; and in the Iſle of *Man* of Felony for the Hen, as here of Pety-Larceny.

My Lords, in the other Conſideration of uſing the Supream Power, the ſame Law gives Power to the Parliament to make New Laws, that enables the Inferiour Court, to Judge according to the Old. The Rules that guides the Conſcience of the Inferiour Court is from without, the Preſcripts of the Parliament, and of the Common Law; in the other, the Rule is from within, that *Salus populi* be concerned, that there be no wilful oppreſſion of any of the Fellow-Members, that no more Blood be taken then what is neceſſary for the Cure, the Laws and Cuſtoms of the Realm as well enable the Exerciſe of this, as of the Ordinary and Judicial Power.

My Lords, What hath been ſaid, is becauſe that this proceeding of the Commons by way of Bill, implies the uſe of the meer Legiſlative Power, in reſpect new Laws are for the moſt part paſt by Bill.

This, my Lords, though juſt and legal, and therefore not wholly excluded; yet it was not the only ground that put the Commons upon the Bill, they did not intend to make a new Treaſon, and to Condemn my Lord of *Strafford* for it; they had in it other conſiderations likewiſe, which were to this effect.

Firſt, The Commons knew, that in all former Ages, if doubts of Law aroſe of great and general Concernments, the Parliament was uſually conſulted withal for reſolution, which is the reaſon that many Acts of Parliament are only Declarative of the Old Law, not Introductive of a New, as the Great *Charter* of our Liberties; The Statute of Five and twentieth year of *Edward* the Third of Treaſons; The Statute of the Prerogative, and of late the Petition of Right; if the Law were doubtful in this Caſe, they perceived the Parliament (where the old way is altered, and new Laws made) the fitteſt Judge to clear this Doubt.

Secondly, My Lords, they proceeded this way, to obviate thoſe Scruples and Delays, which through diſuſe of proceedings of this nature, might have riſen in the manner and way of proceedings, ſince the Statute of the Firſt of *Hen.* 4. *cap.* 17. and more fully in the Roll, number 144. The proceedings of Parliament have uſually been upon an Indictment firſt found, though in Caſes of Treaſon particularly mentioned in the Statute

of

of 25 *Edw.* 3. which had not been done in this caſe; doubts likewiſe might riſe, for Treaſons, not particularly mentioned in the Statute of 25 *Edw.* 3. whether the Declaratory Power of Parliament be taken away, in what manner they were to be made, and by whom, they find not any Attainders of Treaſon in Parliament, for near this 200 years, but by this way of Bill; and again, they know that whatſoever could be done any other way, it might be done by this.

Thirdly, In reſpect of the Proofs and Depoſitions, that have been made againſt him; for Firſt, although they knew not, but that the whole Evidence which hath been given at the Barr, in every part of it, is ſufficiently comprehended within the Charge, yet if therein they ſhould be miſtaken, if it ſhould prove otherwiſe, uſe may juſtly be made of ſuch Evidence in this way of Bill, wherein ſo as Evidence be given in; it's no way requiſite that there ſhould have been any Articles or Charge at all; and ſo in the caſe of double Teſtimony upon the Statute of the 1 of *Edw.* 6. whether one direct Witneſs, with others, to Circumſtances, had been ſingle or double Teſtimony? And although ſingle Teſtimony might be ſufficient to ſatisfie private Conſciences, yet how far it would have been ſatisfactory in a judicial way, (where Forms of Law are more to be ſtood upon) was not ſo clear; whereas in their way of Bill, private ſatisfaction to each Man's Conſcience is ſufficient, although no Evidence had been given in at all.

My Lords, The proceeding by way of Bill, it was not to decline your Lordſhips Juſtice in the judicial way, in theſe Exigents of the State and Kingdom; it was to husband time, by ſilencing thoſe Doubts, they conceived it the ſpeedieſt and ſureſt way.

My Lords, Theſe are in effect, the things the Commons took into their Conſideration, in reſpect of the manner and way of Proceeding againſt the Earl.

In the next place I am to declare unto your Lordſhips, the things they took into their Conſiderations, in reſpect of the Matter and Merits of the Cauſe, and they are comprehended within theſe Six Heads.

1. That there is a Treaſon within the Statute of 25 of *Edw.* 3. by Levying of War upon the Matter of the 15*th Artitle*.

2. If not by actual levying of War, yet by adviſing, and declaring his intention of War, and that by *Savil's* Warrant, and advice of bringing over the Iriſh Army upon the Matter in the 23 *Article*; then intending of a War, if not within the Clauſe of Levying of a War, in the Statute of 25 *Edw.* 3. yet within the firſt Treaſon, of compaſſing the death of the King.

3. If either of theſe two ſingle Acts, is within the Statute of 25 *Edw.* 3. yet upon putting all together, which hath been proved againſt him, that there's a Treaſon within the firſt Clauſe, of Compaſſing the Death of the King.

Et ſi non Proſunt ſingula juncta juvant.

4. That

4. That he hath Seſſed, and laid Soldiers upon the Subjects of *Ireland*, againſt their Will, and at their Charge, within the Iriſh Statute of the 18*th* year of *Hen. 6th*, that both Perſon and Thing are within the Statute; That the Statute remains in force to this day, that the Parliament here hath cognizance of it, and that even in the ordinary way of Judicature, that if there be a Treaſon and a Traitor, that the want of Juriſdiction, in the judicial way, may juſtly be ſupplied by Bill.

5. That his endeavouring to Subvert the Fundamental Laws and Government of the Realms of *England* and *Ireland*; and inſtead thereof, to introduce a Tyrannical Government againſt Law, is Treaſon by the Common Law; That Treaſons at the Common Law are not taken away by the Statute of 25 *Edw. 3. 1 Hen. 4. &c.* nor any of them.

6. That as this Caſe ſtands, it's juſt and neceſſary to reſort to the Supream Power and Parliament, in caſe all the reſt ſhould fail.

Of theſe ſix, five of them are Treaſon, within the compaſs of the Laws already eſtabliſhed, Three within the Statute of 25 *Edw. 3.* and one within the Iriſh Statute, the other by the Common Law of *England.*

If but any one of theſe Six Conſiderations hold, the Commons conceive, that upon the whole Matter, they had good cauſe to paſs the Bill.

My Lords, For the firſt, of Levying War, I ſhall make bold to read the Caſe to your Lordſhips before I ſpeak to it. It's thus: The Earl did by Warrant under his Hand and Seal, give Authority to *Robert Savil*, a Sergeant at Arms, anſt his Deputies, to Seſs ſuch Numbers of Soldiers, Horſe and Foot, of the Army in *Ireland*, together with an Officer, as the Sergeant ſhould think fit, upon his Majeſties Subject of *Ireland*, againſt their Will; this Warrant was granted by the Earl, to the end to compel the Subjects of *Ireland* to ſubmit, to the unlawful Summons and Orders made by the Earl upon Paper Petitions, exhibited to him in caſe of private Intereſt between Party and Party; this Warrant was executed by *Savil* and his Deputies, by ſeſſing of Soldiers, both Horſe and Foot, upon divers of the Subjects of *Ireland* againſt their Wills, in warlike manner, and at divers times the Soldiers continued upon the Parties, upon whom they were ſeſſed, and waſted their Goods, until ſuch time as they had ſubmitted themſelves unto thoſe Summons and Orders.

My Lords, This is a Levying War within the Statute of 25 *Edw. 3.* The words of the Statute are, *If any Man do levy War againſt our Lord the King in his Realm, this is declared Treaſon.*

I ſhall endeavour in this to make clear to your Lordſhips,

1. What ſhall be a Levying of War, in reſpect of the Motive or Cauſe of it.

2. What ſhall be ſaid a Levying of War, in reſpect of the Action or Thing done.

3. And in the third place, I ſhall apply them to the preſent Caſe.

It will be granted in this Levying of War, that Forces may be raiſed, and likewiſe uſed in Warlike manner, and yet no levying of War within the Statute, that is, when the Forces are raiſed and employed upon private ends, either of Revenge or Intereſt.

Before

Before this Statute in *Edw.* the 1. time, the Title of a Caſtle was in difference between the Earls of *Hereford* and *Glouceſter*, for the maintaining of the poſſeſſion on the one ſide, and gaining of it on the other; Forces were raiſed on either ſide of many hundred men; they marched with Banners diſplayed, one againſt another. In the Parliament, in the Twentieth year of *Edward* 1. this was adjudged only Treſpaſs, and either of the Earls fined 1000 Marks apiece.

After the Statute in *Hilary* Term, in the 15*th* year of *Edward* the Third in the *Kings Bench*, *Rot.* 3. *Nicholas Huntercome* in Warlike manner with Forty men, armed amongſt other Weapons, with Guns (ſo ancient, as appears by that Record, they were) did much Spoil in the Mannor of the Abby of *Dorcheſter*, in the County of *Oxford*, this was accounted no Treaſon, and ſo it hath been held by the Judges, That if one or more Townſhip, upon pretence of ſaving their Commons, do in a forcible and warlike manner throw in Incloſures, this is only a Riot, no Treaſon.

The words of the Statate 25 *Edw.* 3. clear this Point, That if any man ride Armed openly or ſecretly with Men at Arms, againſt any other, to kill and rob, or to detain him until he hath made Fine and Ranſome for his Deliverance, this is declared not to be Treaſon, but Felony or Treſpaſs, as the Caſe ſhall require: all the printed Statutes which have it covertly or ſecret, are miſprinted, for the words in the Parliament Roll, as appears in the 17*th.* are, *Diſcovertment ou Secretement*, Open or Secretly.

Object. So that, my Lords, in this of *Levying War*, the Act is not ſo much to be conſidered, but as in all other Treaſons and Felonies, *quo animo*, with what intent and purpoſe?

My *Lords*, If the end be conſiderable in *Levying War*, it may be ſaid that it cannot be a War, unleſs againſt the King, for the words of the Statute are, *If any Man levy War againſt the King.*

Anſw. That theſe words extend further than to the Perſon of the King, appears by the words of the Statute, which in the beginning declares it to be Treaſon, to compaſs and imagine the Death of the King, and after other Treaſons, this is to be declared to be Treaſon, or levy War againſt the King; If levying of War, extend no further than to the Perſon of the King, theſe words of the Statute are to no purpoſe, for then the firſt Treaſon of compaſſing the King's Death, had fully included it before, becauſe that he which levies War againſt the Perſon of the King, doth neceſſarily compaſs his Death.

It's a War againſt the King, when intended for alteration of the *Laws* or Government in any part of them, or to deſtroy any of the Great Officers of the Kingdom. This is a levying War againſt the King.

1. Becauſe the King doth protect and maintain the *Laws* in every part of them, and the Great Officers, to whoſe Care, he hath in his own ſtead, delegated the execution of them.

2. Becauſe they are the King's *Laws*, he is the Fountain from whence in their ſeveral Channels, they are derived to the Subject: all our Indictments run thus, Treſpaſſes ſaid to be done, *Contra Pacem Domini Regis*, the King's Peace for exorbitant Offences, though not intended againſt the King's Perſon, againſt the King, his Crown and Dignity.

My *Lords*, This Conſtruction is made good, by divers Authorities of great weight, ever ſince the Statute of 25 *Edw.* 3. downwards.

In

In *Richard* the Second's time, Sir *Thomas Talbot* conſpired the death of the Dukes of *Gloceſter* and *Lancaſter*, and ſome other of the Peers; for the effecting of it, he had cauſed ſeveral People in the Country of *Cheſter*, to be armed in Warlike manner in Aſſemblies in the Parliament, held in the 17*th* year of *R.* 2. N° 20. Sir *Thomas Talbot* being accuſed of High-Treaſon for this: It's there declared, inſomuch as one of them was Lord High Steward of *England*, and the other High Conſtable, that this was done in deſtruction of the Eſtates of the Realm, and of the Laws of the Kingdom, and therefore adjudged Treaſon, and the Judgment ſent down to the *Kings Bench*, as appears, *Eaſter* Term, in the 17*th* year of *R.* 2. in the *Kings Bench*, *Rot.* 16. Theſe two Lords had appeared in the 11*th* of *R.* 2. in maintenance of the Act of Parliament made in the year before, one of them was of the Commiſſioners appointed by Parliament, and one of the Appealors of thoſe who would have overthrown it.

The Duke of *Lancaſter* likewiſe was one of the Lords, that was to have been Indicted of Treaſon, for endeavouring the maintenance of it; and therefore Conſpiring of their Deaths, is ſaid to be in deſtruction of their Laws; This therefore is declared to be Treaſon, that concerned the Perſon of the King and Common-wealth.

In that great Inſurrection of the Villains, and meaner People, in *Richard* the Second's time, they took an Oath, *Quod Regi & Communibus fidelitatem ſervarent*, to be true to the King and Commons, and that they would take nothing but what they paid for, puniſhed all Theft with Death; here's no intendment againſt the Perſon of the King; The intent was, to eſtabliſh the Laws of Villanage and Servitude, to burn all the Records, to kill the Judges: This in the Parliament of the 5*th* year of *R.* 2. N° 31, 32. the firſt Part is declared to be Treaſon againſt the King, and againſt the Law.

In the 11*th* year of *R.* 2. in Parliament, the raiſing of Forces, againſt the Commiſſioners, appointed by Act of Parliament the year before, adjudged Treaſon by all the Judges.

The Statute 1 *Mary*, *cap.* 12. enacts, That if Twelve or more ſhall endeavour by force, to alter any of the Laws or Statutes of the Kingdom, he ſhall from ſuch a time there limited, be adjudged only as a Felon. This Act was to continue but to the next Parliament, it is expired, it ſhews by the words only, that the Offence was higher before the making it.

My Lords, In Q. *Elizabeths* time, *Grant* and divers Apprentices of *London*, to the Number of Two hundred, roſe, and aſſembled at *Tower-hill*, carried a Cloak upon a Pole inſtead of a Banner, their intent was to deliver divers Apprentices out of Priſon, that had been committed upon a Sentence in the *Star Chamber* for Riots, to kill the Lord Mayor of *London*, and for ſetting prizes on Victuals. In *Trinity* Term, 37 *Eliz.* divers of the Judges were conſulted withal, and reſolved, That this was a Levying of War againſt the Queen, being intended againſt the Government and Officers of the Queen, and therefore *Grant* and others were executed as Traitors.

Afterwards, in that Queens time, divers of the County of *Oxford* conſulted, to go together from Houſe to Houſe in that Country, and thence to *London* and other Parts, to excite them to take up Arms, for the throwing in of all Incloſures throughout *England*. Nothing was done, nor no Aſſembly. Yet the Statute of 13 *Eliz. cap.* 1. during the Queens Life, made it Treaſon to intend, or adviſe to levy War againſt the Queen.

In *Eaſter* Term, 39 *Eliz.* all the Judges of *England* met about the Caſe, it was reſolved by them, That this was a War intended againſt the Queen; they agreed, That if it had been of one Townſhip or more, upon

on private intereſt, and claim of right of Common, it had not been Treaſon, but this was to throw in all Incloſers through the Kingdom, whereunto theſe Parties ſhould pretend no claim. That it was againſt the Law, in regard that the Statute of *Merton* gave power of Incloſures in many Caſes: upon this reſolution *Bradſaw* and *Burton* were executed at *Aynestow-hill* in *Oxfordſhire*, the place where they intended the firſt Rendezvous.

So that, my Lords, if the end of it be to overthrow any of the Statutes, any part of the Law and ſetled Government, or any of the great Officers intruſted with the Execution of them, This is a War againſt the King.

My Lords, It will be further conſiderable, what ſhall be accounted a Levying of War, in reſpect of the actions and things done; there's a deſign to alter ſome part of the Laws, and preſent Government, for the effecting thereof, People be provided of Arms, gathered together into Troops, but afterwards march not with Banners diſplayed, nor do *bellum percutere*, whether the Army themſelves, and gathering together upon this deſign, be a War, or ſuch proſecution of the Deſign with force, as makes it Treaſon within the Statute?

Firſt, If this be not a War, in reſpect that it neceſſarily occaſions hoſtile preparations on the other ſide.

Secondly, From the words of the Statute, ſhall levy War, and be thereof probably Attainted of open Deed, by People of their condition; altho' the bare conſpiring be not an open Deed, yet whether the Arming and Drawing of men together, be not an open Declaration of War?

In Sir *Thomas Talbot*'s Caſe before cited, in the Seventeenth year of *R.* 2. the Acts of Force are expreſſed in the Parliament Roll; That he cauſed divers of the People of the County of *Cheſter*, to be armed in a Warlike manner in Aſſemblies, here is no Marching, no Banners diſplayed.

In the Eighth year of *Hen.* 8. *William Bell* and *Thomas Lacy* in *Com. Kent*, conſpired with *Thomas Cheyney*, called the *Hermite of the Queen of Faries*, to overthrow the Law and Cuſtoms of the Realm; and for the effecting of it, they with Two hundred more, met together, and concluded upon a courſe of raiſing greater Forces in the County of *Kent*, and the adjacent Shires: This adjudged Treaſon; theſe were open Acts.

My Lords, For the application of both theſe, to the Caſe in queſtion.

Firſt, In reſpect of the end of it; here was a War againſt the King, it was to ſubvert the Laws, this being the deſign; for the effecting of it, he aſſumed to his own Perſon an Arbitrary Power over the Lives, Liberties, and Eſtates of His Majeſties Subjects, and determined Cauſes upon Paper-Petitions, at his own Will and Pleaſure; Obedience muſt be forced by the Army, this is declared by the Warrant.

My Lords, If it be ſaid that the Warrant expreſſeth not any intent of ſubverting the Laws; It expreſſeth fully one of the principal means, whereby this was to be done, that is, Obedience to his Arbitrary Orders upon Paper-Petitions; This was done in reference to the main Deſign.

In the Caſes of the Town of *Cambridge* and Sir *William Cogan*, they have formerly been cited to your Lordſhips upon other occaſions, the things in themſelves were not Treaſon, they were not a Levying of War.

In that of *Cambridge*, the Town met together, and in a forcible manner broke up the Univerſity Treaſury, and took out of it the Records, and Evidences of the Liberties of the Univerſity over the Town.

In the other, they of *Bridgewater* marched to the Hoſpital, and compelled the Maſter of the Hoſpital, to deliver unto them certain Evidences that concerned the Town, and forced him to enter into a Bond of 200*l.*

Theſe, if done upon theſe private ends alone, had not been a Treaſon, as appears by the very words of the Statute of 25 *Edw.*3. before-mentioned, of marching openly or ſecretly.

But, my Lords, theſe of *Cambridge* and *Bridgwater*, they were of the Conſpiracy with the Villains, as appears in the Parliament Roll of the firſt year of *Richard* the Second, Numb. 31 1. and 32. where the Towns of *Cambridge* and *Bridgwater*, are expreſly excepted out of the General Pardon made to the Villains; this being done in reference to that deſign of the Villains, of altering the Laws; this was that which made it Treaſon.

If the Deſign went no further, than the enforcing Obedience to theſe Paper-Orders made by himſelf, it was ſufficient it was to Subvert one Fundamental part of the Law; nay, in effect the whole Law; what uſe of Law, if he might order and determine of Mens Eſtates at his own pleaſure? This was againſt the Law notoriouſly declared in *Ireland*.

In the cloſe Roll in the *Tower*, in the 25*th* year of *Edward* the Firſt, a Writ went to the Juſtices in *Ireland* (that Kingdom at that time was governed by Juſtices) declaring, That upon Petitions they were not to determine any Titles between Party, and Party, upon any pretence of profit whatſoever to the King.

In the Eight and twentieth year of *Henry* the Sixth, *chap.* 2. Suits in Equity not before the Deputy, but in *Chancery*; Suits at Common Law, not before him, but in Caſes of Life in the *Kings Bench*; for Title of Lands in Goods in the proper Courts of the *Kings Bench*, or *Common Pleas*.

This declared in the Inſtructions for *Ireland*, in the latter end of King *James* his time, and by the Proclamation in his Majeſties time; my Lord took notice of them called the Commiſſioners, narrow-hearted Commiſſioners.

The Law ſaid, He ſhould not thus proceed in the ſubverſion of it, he ſaith he will, and will enforce Obedience by the Army, this is as much in reſpect of the end, as to endeavour the overthrow of the Statutes of Labourers, of Victuals, or of *Merton* for Incloſures; here is a Warrant againſt the King, in reſpect of the end.

2. In reſpect of the Actions, whether there be either a Levying of War, or an open Deed, or both.

My Lords, There was an Army in *Ireland* at that time, of Two thouſand Horſe and Foot; by this Warrant there is a full deſignation of this whole Army, and an Aſſignment of it over to *Savil* for this purpoſe.

The Warrant gives him power from time to time, to take as many Soldiers, Horſe and Foot, with an Officer throughout the whole Army, as himſelf ſhall pleaſe; here is the terror and awe of the whole Army to enforce Obedience. My Lord, If the Earl had Armed two thouſand men Horſe and Foot, and formed them into Companies to this end, your Lordſhips would have conceived, that this had been a War. It's as much as in the Caſe of Sir *Thomas Talbot*, who armed them in Aſſemblies.

This is the ſame with a breach of Truſt added to it.

That

That Army which was firſt raiſed, and afterwards committed to his Truſt, for the Defence of the People, is now deſtined by him to their deſtruction. This aſſignation of the Army by his Warrant, under his Hand and Seal, is an open Act.

My Lords, Here's not only an open Act done, but a Levying of War, Soldiers, both Horſe and Foot, with an Officer in Warlike manner aſſeſſed upon the Subject, which killed their Cattel, conſumed and waſted their Goods.

Your Lordſhips obſerve a great difference, where ſix men go upon a deſign alone, and when ſent from an Army of ſix hundred, all engaged in the ſame ſervice, ſo many were ſent as were ſufficient to execute the Command, if upon a poor man fewer, more upon a rich; if the ſix had not been able, the whole Army muſt make it good. The reaſon that the Sheriff directed alone, or but with one Bailiff to do execution, is, becauſe he hath the Command of the Law, the King's Writ, and the *Poſſe Comitatus* in caſe of Reſiſtance. Here's the Warrant of a General of an Army; Here's the *Poſſe Exercitus*, the Power of the Army, under the awe of the whole Army, ſix may force more, than ſixty without it; and although never above ſix in one place, yet in ſeveral parts of the Kingdom at the ſame time, might be above ſixty; for ſeſſing of Soldiers was frequent, it was the ordinary courſe for execution of his Orders.

The Lord-Lieutenant of a County in *England*, hath a deſign to alter the Laws and Government; nay, admit the deſign goes not ſo high, he only declares thus much, he will order the Freeholders and Eſtates of the Inhabitants of the County, at his own will and pleaſure, and doth accordingly proceed from Paper-Petitions, foreſeeing there will be diſobedience, he grants out Warrants under his Hand and Seal, to the Deputy-Lieutenants and Captains of the Trained-Bands, that upon refuſal, they will take ſuch number of the Trained-Bands through the County, with Officers, as they ſhall think good, and lay them upon the Lands and Houſes of the Refuſers, Soldiers in a Warlike manner are frequently ſeſſed upon them accordingly; your Lordſhips do conceive, that this is a levying of War within the Statute.

The Caſe in queſtion goes further in theſe two Reſpects.

That it is more againſt the declared Law in *Ireland*, not only againſt the Common-Law, but likewiſe againſt the Statute of 28 *Hen.* 6. againſt the Acts of the Commiſſioners; againſt Proclamations in perſuance of the Law; againſt that himſelf took notice of narrow-hearted Commiſſioners.

In this, that here was an Army, the Soldiers by profeſſion, Acts of Hoſtility from them of greater terror, than from Freeholders of the ſame County.

My Lords, I have done with the Firſt, of Levying of War.

The Second is the Machination, the Adviſing of a War.

The Caſe in this, reſts upon a Warrant to *Savile*, and the advice in the 23*th Article*.

The Warrant ſhews a reſolution of imploying the old Army of *Ireland*, to the oppreſſion of his Majeſties Subjects, and the *Laws*.

In the 23*th Article*, having told his Majeſty, that he was looſed and abſolved from Rules of Government, and might do every thing which Power might admit; he proceeded further in ſpeech to his Majeſty in theſe words; *You have an Army in* Ireland, *you may employ to reduce this Kingdom.*

My Lords, Both being put together, there's a Machination, a Practice, an Advice to levy War, and by force to oppreſs and deſtroy his Majeſties Subjects.

It hath been ſaid, The Statute of 25 *Edw.* 3. is a Penal Law, and cannot be taken by Equity and Conſtruction, there muſt be an Actual War; the Statute makes it Treaſon to Counterfeit the King's Coin, the conſpiring, the raiſing of Furnaces is no Treaſon, unleſs he doth *Nummum percutere*, actually Coin.

My Lords, This is only ſaid, not proved; the Law is otherwiſe, the 19 *Hen.* 6. *fol.* 49. there adjudged, That the conſpiring and aiding to counterfeit Coin was Treaſon, and Juſtice *Stamford* (*fol.* 331. & 44.) is of opinion, that this, or the conſpiring to counterfeit the Great Seal, is Treaſon. The Statute is, If any ſhall counterfeit the Great Seal, conſpiring to do it by the Book, is Treaſon; if a Man take the Broad Seal from one Patent, and put it to another, here is no counterfeiting, it's *tantamount*, and therefore Treaſon, as it is adjudged in 2 *Hen.* 4. *fol.* 25. and by the opinion of *Stamford*, If Machination or Plotting a War be not within that Clauſe of the Statute of Levying of War, yet it is within the firſt, of Compaſſing the Death of the King, as that which neceſſarily tends to the deſtruction both of King and People, upon whoſe Safety and Protection he is to engage himſelf. That this is Treaſon, hath been adjudged, both after the Statutes of 1 *Hen.* 4. *cap.* 10. and 1 Queen *Mary*; ſo much inſiſted upon on the other ſide. In the Third year of King *Henry* the Fourth, one *Balſhal* coming from *London*, found one *Bernard* at Plough, in the Pariſh of *Oſley*, in the County of *Hertford*, *Bernard* asked *Balſhal* what news? he told him, that the news was, That King *Richard* the Second was alive in *Scotland* (which was falſe, for he was dead,) and that by *Midſummer* next, he would come into *England*; *Bernard* asked him, What were beſt to be done? *Balſhal* anſwered, Get Men, and go to King *Richard*. In *Michaelmas* Term, in the Third year of *Henry* the Fourth, in the *Kings Bench*, *Rot.* 4. this Advice of War adjudged Treaſon.

In Queen *Mary*'s time, Sir *Nicholas Throckmorton* conſpired with Sir *Thomas Wyat*, to Levy War within this Realm for Alteration in Religion, he joyned not with him in the Execution. This Conſpiracy alone declared to be Treaſon by all the Judges; this was after the Statute of Queen *Mary*, ſo much inſiſted upon.

That Parliament ended in *October*, this Opinion was delivered the *Eaſter* Term following, and is reported by Juſtice *Dyer*, *fol.* 98. It's true, Sir *Thomas Wyat* afterwards did levy War; Sir *Nicholas Throckmorton* he only conſpired. This adjudged Treaſon.

One *Story* in Queen *Elizabath*'s time practiſed with Foreigners, to levy War within this Kingdom, nothing done in perſuance of the practice. The intent without any adhering to Enemies of the Queen, or other Cauſe, adjudged Treaſon, and he executed thereupon.

It's true, my Lords, that year 13 *Eliz.* by Act of Parliament it's made Treaſon, to intend the levying of War; this Caſe was adjudged before the Parliament: The Caſe was adjudged in *Hilary* Term, the Parliament begun not till the *April* following. This, my Lords, is a Caſe judged in point, that the practiſing to levy War, though nothing be done in execution of it, is Treaſon.

Object.

Object. It may be objected, That in these Cases, the Conspiring being against the whole Kingdom, included the Queen, and was a compassing Her destruction, as well as of the Kingdoms, here the Advice was to the King.

Object.

Answ. The Answer is first, That the Warrant was unknown to his Majesty, that was a Machination of War against the People and Laws, wherein his Majesties Person was engaged for Protection.

Answ.

Secondly, That the Advice was to his Majesty, aggravates the Offence, it was an Attempt which was the Offence; it was an Attempt not only upon the Kingdom, but upon the Sacred Person and his Office too; himself was *hostis patriæ*, he would have made the Father of it so to: Nothing more unnatural nor more dangerous, than to offer the King Poyson to drink, telling him that it is a Cordial, is a passing of his Death: the Poyson was repelled, there was an Antidote within; the Malice of the giver beyond expression. The perswading of Foreigners to invade the Kingdom, hold no proportion with this Machination of War; against the Law of Kingdom, is against the King, they cannot be severed.

My Lords, If no actual War within that Statute, if the Counselling of War, if neither of these single Acts be Treason within the Statute, The Commons, in the next place, have taken it into consideration, what the addition of his other Words, Counsels, and Actions do operate in the Case, and have conceived, that with this Addition, all being put together, that he is brought within the Statute of 25 *E.* 3.

The words of the Statute are, *If any Man shall Compass, or Imagine the Death of the King*; the words are not, *If any Man shall Plot, or Counsel the Death of the King*; No, my Lords, they go further than to such things as are intended immediately, directly, and determinatively against the Life and Person of the King, they are of a larger extent; to Compass, is to do by Circuit, to Consult or Practice another thing directly, which being done, may necessarily produce this effect.

However it be in the other Treasons within this Statute, yet in this, by the very words, there is room left for Constructions, for necessary Inferences and Consequences.

What hath been the Judgment and Practice of former times, concerning these words, of compassing the King's Death, will appear to your Lordships, by some Cases of Attainders upon these words.

Owen's Case of Sandwich in Kent.

One *Owen* in K. *James* his time, in the 13*th* year of his Reign, at *Sandwich* in *Kent*, spake these words, That K. *James* being Excommunicated by the Pope, may be killed by any Man, which killing is no murther: Being asked by those he spake to, how he durst maintain so bloody an Assertion? Answered, That the matter was not so heinous as was supposed; for, the King, who is the Lesser, is concluded by the Pope, who is the Greater; and, as a Malefactor, being Condemned before a Temporal Judge, may be delivered over to be Executed; So the King, standing Convicted by the Popes Sentence of Excommunication, may justly be slaughtered without fault; for, the Killing of the King, is the Execution of the Popes Supream Sentence, as the other is the Execution of the Law. For this, Judgment of High Treason was given against him, and Execution done.

My Lords, There is no clear intent appearing, that *Owen*, desired the thing should be done, only Arguments that it might be done, this is a Compassing

Compaſſing, there is a clear Endeavour to corrupt the Judgment, to take off the Bonds of Conſcience, the greateſt Security of the King's life. God forbid, ſaith one of better Judgment than he, that I ſhould ſtretch out my hand againſt the Lord's Anointed: No, ſaith he, the Lord doth not forbid it, you may, for theſe Reaſons, lawfully kill the King.

He that denies the Title to the Crown, and plots the means of ſetting it upon anothers Head, may do this without any direct or immediate deſiring the death of Him that wears it; yet this is Treaſon, as was adjudged in the 10*th* of *Hen.* 7. in theſe of *Burton*, and in the Duke of *Norfolk*'s Caſe, 13 *Eliz.*

This is a compaſſing of his Death; for there can no more be two Kings in one Kingdom, then two Suns in the Firmament: he that conceives a Title, counts it worth venturing for, though it coſt him his life: he that is in poſſeſſion thinks it as well worth the keeping. *John Sparhauk*, in King *Henry* the Fourth's time, meeting two men upon the way, amongſt other talk, ſaid, That the King was not rightful King, but the Earl of *March*; and that the Pope would grant Indulgencies to all, that could aſſiſt the Earl's Title, and that within half a year there would be no Liveries nor Cognizances of the King; that the King had not kept promiſe with the People, but had laid Taxes upon them.

In *Eaſter* Term, in the Third year of *Henry* the Fourth, in the *Kings Bench*, *Rot.* 12. this adjudged Treaſon, this denying the Title with Motives, though not impliedly of Action againſt it, adjudged Treaſon; this is a compaſſing the King's death.

How this was a compaſſing of the King's Death, is declared in the Reaſons of the Judgment; that the words were ſpoken with an intent, to withdraw the Affections of the People from the King, and to excite them againſt him, that in the end they might riſe up againſt him *in mortem & deſtructionem* of the King.

My Lords, In this Judgment, and others, which I ſhall cite to your Lordſhips, it appears, that it is a compaſſing the King's death by Words, to endeavour to draw the Peoples hearts from the King, to ſet diſcord between the King and them, whereby the People ſhould leave the King, ſhould riſe up againſt him, to the death and deſtruction of the King.

The Caſes that I ſhall cite, prove not only that it is Treaſon, but what is ſufficient Evidence to make this good.

Upon a Commiſſion held the 18*th* year of *Edw.* 4. in *Kent*, before the Marqueſs of *Dorſet*, and others, an Indictment was preferred againſt *John Awater*, of High-Treaſon, in the Form before-mentioned, for Words, which are entred in the Indictment *Sub hac forma*: That he had been Servant to the Earl of *Warwick*; that though he were dead, the Earl of *Oxford* was alive, and ſhould have the Government of part of that Country; That *Edward*, whom you call King of *England*, was a falſe Man, and had, by art and ſubtilty, ſlain the Earl of *Warwick*, and the Duke of *Clare* his Brother, without any cauſe, who before had been both of them Attainted of High-Treaſon.

My Lords, This Indictment was returned into the *Kings Bench* in *Trinity* Term, in the Eighteenth year of *Edward* the Fourth; and, in *Eaſter* Term, the Two and twentieth of *Edward* the Fourth, he was outlawed, by the ſtay of the Outlawry, ſo long as it ſeems the Judges had well adviſed before, whether it were Treaſon or not.

At the ſame Seſſion *Thomas Heber* was Indicted of Treaſon for theſe words, That the laſt Parliament was the moſt ſimple and inſufficient Parliament

liament that ever had been in *England*; That the King was gone to live in *Kent*, becauſe that for the preſent he had not the Love of the Citizens of *London*, nor ſhould he have it for the future: That if the Biſhop of *Bath* and *Wells* were dead, the Archbiſhop of *Canterbury* being Cardinal of *England*, would immediately loſe his head.

This Indictment was returned into the *Kings Bench* in *Trinity* Term, in the 18th year of *Edward* the Fourth: afterwards there came a Privy-Seal to the Judge to reſpit the Proceedings, which (as it ſhould ſeem) was to the intent the Judges might adviſe of the Caſe, for afterwards he is outlawed of High-Treaſon upon this Indictment.

Theſe words are thought ſufficient evidence, to prove theſe ſeveral Indictments, that they were ſpoken to withdraw the Peoples Affections from the King, to excite them againſt Him, to cauſe Riſings againſt Him by the People, *in mortem & deſtructionem* of the King.

Your Lordſhips are pleaſed to conſider, That in all theſe Caſes, the Treaſon was for words only, words by private perſons, and in a more private manner, but once ſpoken, and no more, only amongſt the People, to excite them againſt the King.

My Lords, Here are Words, Counſels, more, then Words and Actions too, not only to diſaffect the People to the King, but the King likewiſe towards the People; not once, but often; not in Private, but in Places moſt Publick; not by a private Perſon, but by a Counſellor of Sate, a Lord-Lieutenant, a Lord-Preſident, a Lord-Deputy of *Ireland*.

1. To his Majeſty, That the Parliament had denied to ſupply Him: a Slander upon all the Commons of *England*, in their Affections to the King and Kingdom, in refuſing to yield timely ſupply for the Neceſſities of the King and Kingdom.

2. From thence, That the King was looſe, and abſolved from Rules of Government, and was to do every thing, that Power would admit. My Lords, more cannot be ſaid, they cannot be aggravated; whatever I ſhould ſay would be in Diminution.

3. Thence you have an Army in *Ireland*, you may employ to reduce this Kingdom.

To counſel a King, not to love his People, is very unnatural; it goes higher to hate them, to malice them in his heart, the higheſt expreſſions of malice, to deſtroy them by War. Theſe Coals they were caſt upon his Majeſty, they were blown, they could not kindle in that Breaſt.

Thence, my Lords, having done the utmoſt to the King, he goes to the People. At *York*, the Country being met together for Juſtice, at the open Aſſiſes upon the Bench, he tells them, ſpeaking of the Juſtices of the Peace, that they were all for Law, nothing but Law, but they ſhould find, that the King's little Finger, ſhould be heavier than the Loins of the Law, as they ſhall find. My Lords, Who ſpeaks this to the People, a Privy Counſellor: This muſt be either to traduce his Majeſty to the People, as ſpoken from Him, or from himſelf, who was Lord-Lieutenant of the County, and Preſident, intruſted with the Forces and Juſtice of thoſe parts, that he would Employ both this way. Add, my Lords, to His

Words

Words there, the Exerciſing of an Arbitrary and Vaſt Juriſdiction, before he had ſo much as Inſtructions, or Colour of Warrant.

Thence we carry him into *Ireland*; there he Repreſented, by his Place, the Sacred Perſon of his Majeſty.

Firſt, There at *Dublin*, the principal City of that Kingdom, whither the Subjects of that Country came for Juſtice in an Aſſembly of Peers, and others of greateſt Rank, upon occaſion of a Speech of the Recorder of that City, touching their Franchiſes and Regal Rights; he tells them, That *Ireland* was a conquered Nation, and that the King might do with them what he pleaſed.

Secondly, Not long after, in the Parliament 10 *Car.* in the Chair of State, in full Parliament again, That they were a conquer'd Nation; and that they were to expect Laws as from a Conqueror, before the King might do with them what He would, now they were to expect it that he would put this Power of a Conqueror in Execution:—The Circumſtances are very conſiderable; in full Parliament; from himſelf in *Cathedra*, to the Repreſentative Body of the whole Kingdom.

The Occaſion adds much, when they deſired the Benefit of the Laws, and that their Cauſes and Suits might be determined according to Law, and not by himſelf, at his Will and Pleaſure, upon Paper-Petitions.

Thirdly, Upon like occaſion, of preſſing the Laws and Statutes, that he would make an Act of Council-Board in that Kingdom, as Binding as an Act of Parliament.

Fourthly, He made his Words good by his Actions, Aſſumed and Exerciſed a boundleſs and lawleſs Juriſdiction, over the Lives, Perſons and Eſtates of His Majeſties Subjects, procured Judgment of Death againſt a Peer of that Realm; Commanded another to be hanged, this was accordingly Executed, both in times of high Peace, without any Proceſs or Colour of Law.

Fifthly, By Force, of a long time, he Seized the Yarn and Flax of the Subjects, to the ſtarving and undoing of many Thouſands; beſides the Tobacco buſineſs, and many Monopolies and Unlawful Taxes; forced a New Oath, not to diſpute His Majeſties Royal Commands; determined Mens Eſtates at his own Will and Pleaſure, upon Paper-Petitions to himſelf; forced Obedience to theſe, not only by Fines and Impriſonment but likewiſe by the Army; ſeſſed Soldiers upon the Refuſers in an Hoſtile manner.

Sixthly, Was an Incendiary of the War between the two Kingdoms of *England* and *Scotland*.

My Lords, We ſhall leave it to your Lordſhips Judgments, whether theſe Words, Counſels, and Actions, would not have been a ſufficient Evidence, to have proved an Indictment drawn up againſt him, as thoſe before mentioned, and many others are? That they were ſpoken and done to the Intent, to draw the King's heart from the People, and the Affections of the People from the King; that they might leave the King, and afterwards riſe up againſt him, to the deſtruction of the King; If ſo, here is a Compaſſing of the King's Death, within the Words of the Statute of

25*th* year of *Edward* the Third, and that Warranted by many former Judgments.

My Lords, I have now done with the Three Treaſons within the Statute of the Twenty fifth of *Edw.* 3. I proceed unto the Fourth, upon the Statute of the Eighteenth year of *Henry* the Sixth, Chapter the Third, in *Ireland*, and I ſhall make bold to read the words to your Lordſhips.

'That no Lord, nor any other, of what condition ſoever he be, ſhall 'bring, or lead Hoblers, Kernes, or Hooded Men, nor any other People, 'nor Horſes, to lie on Horſeback, or on Foot upon the King's Subjects, 'without their good wills and conſent, but upon their own coſts, and 'without hurt doing to the Commons; and if they ſo do, he ſhall be 'adjudged as a Traitor.

1. The Argument that hath been made concerning the perſon, that it extends not to the King, and therefore not to him, weighs nothing with your Lordſhips, *Rex non habit in Regno parem*; from the greatneſs of his Office, to argue himſelf into the ſame impoſſibility with his Sacred Majeſty, of being incapable of High Treaſon, it's an Offence, no Treaſon; The words in the Statute, *No Lord, or any other of what condition ſoever he be*, include every Subject.

In *Trinity Term*, in the three and thirtieth year of *Henry* the Eighth, in the *Kings-Bench*, *Leonard* Lord *Gray*, having immediately before been Lord Deputy of *Ireland*; is Attainted of High-Treaſon, and Judgment given againſt him, for letting divers Rebel out of the Caſtle of *Dublin*, and diſcharging Iriſh Hoſtages and Pledges, that had been given for ſecuring the Peace; for not puniſhing one that ſaid, That the King was an Heretick: I have read the whole Record, there's not one thing laid to his Charge, but was done by him as Lord Lieutenant; Had the ſame Plea with my Lord of *Strafford*; That theſe things were no adhering to the King's Enemies, but were done for Reaſons of State, that he was not within thoſe words of the Statute of the 25 of *Edw.* 3. himſelf being Lord Lieutenant there.

Object. It hath been ſaid, that the Soldiers ſeſſed upon the Subject by him, were not ſuch perſons as are intended by that Statute, *Hoblers*, *Kernes*, and *Hooded Men*, thoſe Raſcally people.

Anſw. My Lords, they were the Names given to the Soldiery of thoſe times, *Hoblers*, *Horſemen*; the other the Foot. But the words of the Statute go further, Nor any other People, neither Horſe nor Foot. His Lordſhip ſeſſed upon them both Horſe and Foot.

Object. The Statute extends only to thoſe, that lead or bring; *Savil* led them; my Lords only gave the Warrant.

Anſw. To this I ſhall only ſay thus, *Plus peccat author, quam Actor*, by the rule of the Law *Agentes & conſentientes pari plectuntur pœna*; if conſent, much more a Command to do it, makes the Commander a Traitor; If there be any Treaſon within this Statutes, my Lord of *Strafford* is Guilty.

It hath been therefore ſaid, that this Statute, like *Goliah's* Sword hath

been wrapt up in Cloath, and laid behind the door, that it hath never been put in execution.

My Lords, if the Clerk of the Crown in *Ireland*, had certified your Lordſhips upon ſearch of the Judgments of Attainders in *Ireland*, he could not find that any man had been Attainted upon this Statute, your Lordſhips had ſome grounds to believe it; Yet its only my Lord of *Strafford's* Affirmation; beſides, your Lordſhips know, that an Act of Parliament binds until it be repealed.

It hath been therefore ſaid, That this Statute is repealed by the Statute of the 8*th Edw.* 4. *Cap.* 1. and of the 10*th* of *Hen.* 7. *Cap* 22. becauſe by theſe two Statutes, the *Engliſh* Statutes are brought into *Ireland.*

The Argument (if I miſtook not) ſtood thus; that the Statute of the Firſt of *Henry* the 4*th* the 10*th Chap.* ſaith, That in no time to come, Treaſon ſhall be adjudged otherwiſe, then it was ordained by the Statute of the 25 *E.* 3. that the reaſon mentioned in the Eighteenth year of *Henry* the Sixth, in the *Iriſh* Statute, is not contained in the 25 *Edw.* 3. and therefore contrary to the Statute of the 1 *Hen.* 4. it muſt needs be void.

If this were Law, then all the Statutes that made any new Treaſon after the Firſt of *Henry* the 4*th*, were void in the very Fabrick, and at the time when they were made; hence likewiſe it would follow, that the Parliament now, upon what occaſion ſoever, hath no power to make any thing Treaſon, not declared to be ſo in the Statute 25 *Edw.* 3. This your Lordſhips eaſily ſee, would make much for the Lord of *Starfford's* advantage, but why the Law ſhould be ſo, your Lordſhips have only as yet heard an Affirmation of it; no reaſon.

But, ſome touch was given, that the Statute of the 10*th* year of *Henry* the Seventh, in words, make all the *Iriſh* Statutes void, which are contrary to the *Engliſh.* The Anſwer to this is a denial that there are any ſuch words in the Statute. The Statute declares, that The Engliſh Statutes ſhall be effectual, and confirmed in *Ireland*, and that all the Statutes made before time to the contrary, ſhall be revoked.

This repeals only the Iriſh Statutes of the tenth year of *Henry* the Fourth, and the Nine and twentieth year of *Henry* the Sixth, which ſay, that the Engliſh Statutes ſhall not be in force in *Ireland*, unleſs particularly received in Parliament, it makes all the Iriſh Statutes void which ſay, that the Engliſh Statutes ſhall not be in force there.

It is uſual when a Statute ſays, that ſuch a thing ſhall be done, or not done, to add further, that all Statutes to the contrary ſhall be void.

No likelihood that the Statute intended to take away any Statute of Treaſon, but when in the Chapter next before this, Murder there is made Treaſon, as if done upon the King's Perſon.

That this Statute of the Eighteenth year of *Henry* the Sixth, remains on Foot, and not repealed either by the Statute of the Eighth year of *Edward* the Fourth, or this of the tenth year of *Henry* the Seventh, appears expreſly by two ſeveral Acts of Parliament, made at the ſame Parliament of the tenth year of *Henry* the Seventh.

By an Act of Parliament of *Henry* the Sixth's time in *Ireland*, it was made Treaſon for any Man whatſoever, to procure a privy-Seal, or any other Command whatſoever, for apprehending any Perſon in *Ireland* for Treaſon done without that Kingdom, and to put any ſuch command in Execution, divers had been attainted of Treaſon for executing ſuch Commands: There is a Treaſon, ſo made, by Act of Parliament, in *Henry* the Sixth's time. In the third Chapter of this Parliament of the tenth of

Henry

Henry the Seventh; an Act is paſſed for no other end, then to repeal this Statute of *Henry* the Sixth of Treaſon.

If this Statute of *Henry* the Sixth of Treaſon had been formerly repealed by the Statute of 8 *E.* 4. or then by the two and twentieth Chapter of this Parliament of the 10*th* of *Henry* the Seventh, by bringing in the *Engliſh* Statutes, the Law-makers were much miſtaken now to make a particular Act of of Parliament to repeal it, it being likewiſe ſo unreaſonable an Act as it was.

In the Eight Chapter of this Parliament of the 10*th* of *Henry* the Seventh, it is Enacted, that the Statutes of *Kilkenny*, and all other Statutes made in *Ireland* (two only excepted, whereof this of the Eighteenth of *Henry* the Sixth is none) for the Common-Weal, ſhall be inquired of, and executed: My Lord of *Strafford* ſaith, that the bringing in of the *Engliſh* Statute hath repealed this Statute; the Act of Parliament made the ſame time, ſaith no; it ſaith, that all the *Iriſh* Statutes, excepting two, whereof this is none, ſhall ſtill be in force.

Object. Oh, but however it was in the 10*th* *H.* 7. yet it appears by Judgment in Parliament afterwards, that this Statute of 18 *Henry* 6. is repeal'd, and that is by the Parliament of the 11*th* year of Queen *Elizabeth*, the 7*th* Chapter, that by this Parliament it is Enacted, That if any Man, without Licence from the Lord Deputy, lay any Soldiers upon the King's Subjects, if he be a Peer of the Realm, he ſhall forfeit one hundred pounds, if under the degree of a Peer, one hundred Markes.

This Statute, as is alledged, declares the Penalty of laying Soldiers on the Subjects to be only one hundred pounds, and therefore it is no Treaſon.

Anſw. My Lords, if the Offence for which this Penalty of One hundred pounds is laid upon the Offenders, be for laying Soldires, or leading them to do any Act Offencive or invaſive upon the King's People, the Argument hath ſome force; but that the Offence is not for laying Soldiers upon the true Subjects, that this is not the Offence intended in the Statute, will appear to your Lordſhips *Ex abſurdo*, from the words of it.

The Words are.

"That if any Man ſhall aſſemble the People of the County toge-
"ther, to conclude of Peace or War, or ſhall carry thoſe people
"to do any Acts Offenſive or Invaſive, then he ſhall forfeit One
"hundred pounds.

If concluding of War, and carrying the People to the Acts Invaſive, be againſt the King's Subjects, this is High-Treaſon, which are the words of the Statute of 25 *E.* 3. for if any Subject ſhall aſſemble the people, and conclude a War, and accordingly ſhall lead them to Invade the Subjects, this is a levying of War within the words of the Statute; and then the Statutes of the 25 *E.* 3. 1 *H.* 4. 1 of Q. *Mary*, which the Earl of *Strafford*, in his Anſwers, deſires to be tried by, are as well repealed, in this point, as the Statute of the 18*th* of *Henry* the Sixth, he might then, without fear of Treaſon, have done what he pleaſed with the *Iriſh* Army; for all the Statutes of levying of War by this Statute of 11 *Eliz.* were taken out of his way.

In *Ireland* a Subject gathers Forces, concludes a War againſt the King's people, actually invades them, bloodſhed, burning of houſes, depradations enſue; two of thoſe, that is, Murder and Burning of Houſes, are Treaſon; and there the other Felony by the conſtruction the puniſhment of Treaſon, and Felony is turned only into a Fine of One hundred pounds; from loſs of Life, Land, and all his Goods, only to loſs of part of his Goods.

The Third Abſurdity, a War is concluded, three ſeveral Inrodes are made upon the Subject; in the firſt a Hundred pounds damage; in the ſecond five thouſand pounds damage; in the third ten thouſand pounds damage, is done to the Subjects; the penalty for the laſt inroade is no more then for the firſt, only one hundred pounds. This Statute by this Conſtruction, tells any Man, how to get his living without long labour.

Two parts of the hundred pounds is given to the King, a third part unto the Informer; Here's no damage to the Subjects, that is robbed and deſtroy'd.

My Lords, The Statute will free it ſelf and the makers from thoſe Abſurdities.

The meaning of the Statute is, That if any Captain ſhall, of his own head, conclude a Peace or War againſt the King's Enemies, or Rebels, or ſhall, upon his own head, invade them without Warrant from the King, or Lord Deputy of *Ireland*, that then he ſhall forfeit a Hundred pounds.

The Offence is not for laying of Soldiers upon the King's People, but making War againſt the *Iriſh* Rebels without Warrant; the Offence is not in the Matter, but in the Manner, for doing a thing lawful, but without Miſſion.

I. *This will appear by the general Scope of the Statute, all the parts being put together.*

II. *By particular Clauſes in the Statute.*

III. *By the Condition of that Kingdom, at the time of the making of that Statute.*

For the *Firſt*, the Preamble recites, that in time of Declination of Juſtice, under pretext of defending the Country and themſelves, divers Great Men arrogated to themſelves Regal Authority, under the names of Captains; that they acquired to themſelves that Government, which belonged to the Crown; for preventing of this, it's Enacted, That no man dwelling within the Shire-Grounds, ſhall thenceforth aſſume, or take to himſelf the Authority or Name of a Captain, within theſe Shire-Grounds, without Letters-Patents from the Crown, nor ſhall, under colour of his Captainſhip, make any demand of the People of any Exaction, nor as a Captain, aſſemble the people of the Shire-Grounds; nor as a Captain ſhall lead thoſe People to do any acts offenſive or invaſive, without Warrant under the Great Seal of *England*, or of the Lord Deputy, upon penalty, that if he do any thing contrary to that Act, that then the Offender ſhall forfeit a Hundred pounds.

My Lords, The Rebels had been out; the Courts of Juſtice ſcarce ſate; for defence of the Country divers uſurped the place of Captain, concluded of a War againſt the Rebels, and invaded them without Warrant: Invading the Rebels without Authority, is a crime,

This

This appears further by particular clauſes in the Statute, none ſhall exerciſe any Captainſhip within the Shire-Grounds, nor aſſemble the men of the Shire-Grounds, to conclude War, or lead them to any Invaſion.

That that had antiently been ſo continued to this time, that is the *Iriſh*, and the *Engliſh* Pale, they within the Shire-grounds, are within the *Engliſh* Pale; and *ad fidem & legem Angliæ*. The *Iriſh* without the Pale were enemies always, either in open Act of Hoſtilty, or upon Leagues and Hoſtages given for ſecuring the Peace; and therefore, as here in *England* we had our Marches upon the frontiers in *Scotland* and *Wales*, ſo were there Marches between the *Iriſh* and *Engliſh* Pale, where the Inhabitants held their Lands by this tenure, to defend the Country againſt the *Iriſh*, as appears in the cloſe Roll of the *Tower*, in the 20*th* year of *Edw.* 3. *membrana* 15. on the backſide, and in an *Iriſh* Parliament, held the 42 year of *Edw.* 3. it's declared, That the *Engliſh* Pale was almoſt deſtroy'd by the *Iriſh* Enemies, and that there was no way to prevent the danger, but only, that the Owners reſide upon their Lands for defence, and that abſence ſhould be a forfeiture. This Act of Parliament in a great Council here was affirmed, as appears in the cloſe Roll, the 22 year of *Edw.* 3. *Membrana* 20 *dorſo*.

Afterwards, as appears in the Statute of 28 *Hen.* 6*th* in *Ireland*, this Hoſtility continued between the *Engliſh* Marches and the *Iriſh* Enemies, who by reaſon there was no difference between the *Engliſh* Marches and them in their apparel, did daily (not being known to the *Engliſh*) deſtroy the *Engliſh* within the Pale: Therefore it is enacted, that every *Engliſh* man ſhall have the hair of the upper Lip for diſtinction ſake. This hoſtility continued untill the 10*th* year of *Henry* the 7*th*, as appears by the Statute of 10 *H.* 7*th* and 17*th* in ſucceſſively downwards, till the making of this very Statute of 11 *Eliz.* as appears fully in the 9*th* Chap.

Nay, Immediately before, and at the time of the making of this Statute, there was not only enmity between thoſe of the Shire-ground, that is, the *Engliſh* and *Iriſh* Pale, but open War, and acts of hoſtility, as appears by Hiſtory of no leſs Authority, than that Statute it ſelf; for in the firſt Chapter of that Statute, and the Attainder of *Shane Oneale*, who had made open War, was ſlain in open War; it's there declared, That he had gotten by force, all the North of *Ireland*, for an hundred and twenty miles in length, and about a hundred in breadth; that he had maſtered divers places within the *Engliſh* Pale; when the flame of this War by his death, immediately before this Statute was ſpent, yet the Firebrands were not all quenched, for the Rebellion continued by *John Eitz-Gerard*, called the *White Knight*, and *Thomas Gueverford*. This appears by the Statute of the thirteenth year of Queen *Eliz.* in *Ireland*, but two years after this, the eleventh year of Queen *Eliz.* where they are attainted of High Treaſon, for levying of War this Eleventh year, wherein this Statute was made.

So that my Lords, immediately before, and at the time of the making of this Statute, there being War between thoſe of the Shire-ground, mentioned in this Statute, and the *Iriſh*, the concluding of War, and Acts Offencive and Invaſive there mentioned, can be intended againſt no others, but the *Iriſh* Enemies.

Again, The words of the Statute are, *No Captain ſhall aſſemble the People of the Shire-grounds*, to conclude of Peace or War; Is to preſume, that thoſe of the Shire-grounds will conclude of War againſt themſelves. Nor (with the Statute) *ſhall carry thoſe of the Shire-grounds to do any*

Acts

Acts Invaſive; by the conſtruction which is made on the other ſide, they muſt be carried to fight againſt themſelves.

Laſtly, The words are, That as Captain, none ſhall aſſume the Name, or Authority of a Captain; or as a Captain ſhall gather the People together; or as a Captain lead them; the offence is not in the matter, but in the manner; If the Acts offencive were againſt the King's good Subjects, thoſe that were under Command, were puniſhable, as well as the Commanders; but in reſpect the Soldiers knew the ſervice to be good in it ſelf, being againſt the enemies, and that it was not for them to diſpute the Authority of their Commanders, the penalty of 100 *l.* is laid only upon him, That as Captain, ſhall aſſume this Power without Warrant, the People commanded, are not within this Statute.

My Lords, The Logick whereupon this Argument is framed, ſtands thus, becauſe the Statute of the Eleventh year of Queen *Elizabeth*, inflicts a penalty of an 100 *l.* and no more, upon any man, that as a Captain without Warrant, and upon his own head ſhall conclude of, or make War againſt the King's Enemies: Therefore the Statute of the Eighteenth year of *Henry* the *6th* is repealed, which makes it Treaſon to lay Soldiers upon, or to levy War againſt the King's good People.

But, my Lords, Obſervations have been made upon other words of this Statute, that is, that without Licence of the Deputy, theſe things cannot be done, this ſhews that the Deputy, is within none of the Statutes.

My Lords, This Argument ſtands upon the ſame reaſon with the former, becauſe he hath the ordering of the Army in *Ireland*, for the defence of the People, and may give Warrant to the Officers of the Army, upon eminent occaſions of Invaſion, to reſiſt or proſecute the Enemy, becauſe of the danger that elſe might enſue forthwith, by ſtaying for a Warrant from His Majeſty out of *England*.

My Lords, The Statute of the 10*th* year of *Henry* the 7*th* *chap.* 17. touched upon for this purpoſe, clears the buſineſs in both points; for there is declared, That none ought to make War upon the *Iriſh* Rebels, and Enemies, without Warrant from the Lieutenant, the Forfeiture 100 *l.* as here the Statute is the ſame with this, and might as well have been cited, for repealing the Statute of the 18*th* year of *Henry* the *6th* as this of the 11*th* year of Queen *Elizabeth*. But if this had been inſiſted upon, it would have expounded the other too clear againſt him.

Object. My Lords, It hath been further ſaid, although the Statute be in force, and there be a Treaſon within it, yet the Parliament hath no Juriſdiction, the Treaſons are committed in *Ireland*, therefore not triable here.

Anſw. My Lords, Sir *John Parrot*, his Predeceſſor, 24 *Edw.* was tried in the *Kings Bench* for Treaſon done in *Ireland*, when he was Deputy; and *Ourche* in the 33 year of Queen *Elizabeth*, adjudged here for Treaſon done in *Ireland*.

Object. But it will be ſaid, theſe Trials were aftar the Statute of the 34*th* year of *Henry* the 8*th*, which enacts, that Treaſon beyond Sea may be tryed in *England*.

Anſw.

Anſw. My Lords, his Predeceſſor my Lord *Gray* was tryed, and adjudged here in the *Kings-Bench*; that was in *Trinity Term*, in the 33 year of *Henry* the 8*th*. this was before the making of that Statute.

Object. To this again we will ſay, That it was for Treaſon by the Law and Statute of *England*; that this is not for any thing that's Treaſon by the Law of *England*, but an Iriſh Statute.

So that the queſtion is only, Whether your Lordſhips here in Parliament, have cognizance of an offence, made Treaſon by an Iriſh Statute, in the ordinary way of Judicature, without Bill? for ſo is the preſent queſtion

For the clearing of this, I ſhall propound two things to your Lordſhips conſideration.

Whether the Rule for expounding the Iriſh Statute and Cuſtoms, be one and the ſame in *England* as in *Ireland*?

That being admitted, whether the Parliament in *England* have cognizance or Juriſdiction of things there done, in reſpect of the place, becauſe the King's Writ runs not there?

For the Firſt, in reſpect of the place, the Parliament here cognizance there. And Secoudly, if the Rules for expounding the Iriſh Statutes and Cuſtoms, be the ſame here as there, this exception (as I humbly conceive) muſt fall away.

In *England* there is the Common-Law, the Statutes, the Acts of Parliament, and Cuſtoms peculiar to certain places, differing from the Common-Law; If any queſtion ariſe concerning either a Cuſtom or an Act of Parliament, the Common-Law of *England*, the Firſt, the Primitive and the General Law, that's the Rule and Expoſitor of them, and of their ſeveral extents; it is ſo here, it is ſo in *Ireland*, the Common-Law of *England* is the Common-Law of *Ireland* likewiſe; the ſame here and there in all the parts of it.

It was introduced into *Ireland* by King *John*, and afterwards by King *Henry* 3. by Act of Parliament held in *England*, as appears by the Patent-Rolls of the 30 year of King *Henry* 3. the firſt *Membrana*, the words are, *Quia pro Communi Utilitate terræ Hiberniæ & unitate terrarum Regis, Rex vult, & de Communi Concilio Regis Proviſum eſt, quod omnes Leges & Conſuetudines quæ in Regno Angliæ tenentur, in Hibernia teneantur, & eadem terra eiſdem legibus ſubjaceat, & per eaſdem Regatur ſicut Dominus Johannes Rex cum ultimò eſſet in Hibernia ſtatuit & fiere mandavit, quia*, &c. *Rex vult quod omnia brevia de Communi Jure quæ currant in Anglia, ſimiliter currant in Hibernia, ſub novo ſigillo Regis mandatum eſt Archiepiſcopis*, &c. *quod pro pace & tranquilitate ejuſdem terræ, per eaſdem leges eos regi & deduci permittant, & eas in omnibus ſequanter in cujus*, &c. *Teſte Rege apud* Woodſtock, *Decimo nono die Septembris.*

Here is an union of both Kingdoms, and that by Act of Parliament, and the ſame Laws to be uſed here as there, *in omnibus.*

My Lords, That nothing might be left here for an exception, that is, That in Treaſons, Felonies, and other capital offences concerning Life, the Iriſh Laws are not the ſame here, Therefore it is enacted by a Parliament held in *England*, in the 14*th* year of *Edw.* 2. (it is not in print neither, but in the Parliament Book) that the Laws concerning Life and Member ſhall be the ſame in *Ireland*, as in *Englend.*

And

And that no exception might yet remain, in a Parliament held in *England.* The 5*th* year of *Edw.* 3. it is Enacted. *Quod una & eadem Lex ſit tam Hibernenſis quam Anglicis.*

This Act was enrolled in the *Patent Rolls* of the 5*th* year of *Edw.* 3. Parl. *membr.* 25.

The Iriſh therefore receiving their Laws from hence, they ſend their Students at Law to the Inns of Court in *England,* where they receive their degree, and of them, and of the Common-Lawyers of this Kingdom, are the Judges made.

The Petitions have been many from *Ireland,* to ſend from hence ſome Judges, more learned in the *Law,* then thoſe they had there.

It hath been frequent in caſes of difficulty there, to ſend ſometimes to the Parliament, ſometimes to the King by advice from the Judges here, to ſend them reſolutions of their doubts. Amongſt many, I'll cite your Lordſhips only one, becauſe it is in a caſe of Treaſon upon an Iriſh Statute; and therefore full to this point.

By a Statute thene made the fifth year of *E.* 4. there is a proviſion made for ſuch as upon ſuggeſtions are committed to Priſon for Treaſon, that the party committed, if he can procure 24 Compurgators, ſhall be bailed and let out of priſon.

Two Citizines of *Dublin,* were by a Grand Jury preſented to have committed Treaſon, they deſired benefit of this Statute, that they might be let out of Priſon, upon tender of their Compurgators: The words of the Statute of the 25*th* year of *Edw.* 4*th.* in *Ireland* being obſcure, the Judges there being not ſatisfied what to do, ſent the caſe over to the Queen, deſired the opinion of the Judges here, which was done accordingly. The Judges here ſent over their opinion, which I have out of the Book of Juſtice *Anderſon,* one of the Judges conſulted withal. The Judges delivered their opinion upon an Iriſh Statute, in caſe of Treaſon.

If it be objected. That in this Caſe, the Judges here did not judge upon the party; their opinions were only *ad informandam Conſcientiam,* of the Judges in *Ireland,* that the Judgment belonged to the Judges there. My *Lords,* (with ſubmiſſion) this and the other Authorities, prove, that for which they are cited, that is, that no abſurdity, no failure of Juſtice would enſue, if this great Judicatory ſhould Judge of Traſon, ſo made by an Iriſh Statute.

The Common-Law rules of judging upon the Iriſh Statute; the Pleas of the Crown for things of Life and Death, are the ſame here and there, this is all that yet hath been offered.

For the Second point, That *England* hath no power of Judicature, for thing done in *Ireland.*

My Lords, the conſtant practice of all ages, prove the contrary.

Writs of Error in Pleas of the Crown, as well as in Civil Cauſes, have in all Kings Reigns been brought here, even in the inferior Courts of *Weſtminſter-Hall* upon Judgment given in the Courts of *Ireland,* the practice is ſo frequent, and ſo well known, as that I ſhall cite none of them to your Lordſhips, no preſident will, I believe, be produced to your Lordſhips, that ever the Caſe was remanded back again into *Ireland,* becauſe the queſtion aroſe upon the Iriſh Statute, or Cuſtom.

Object. But it will be ſaid, that Writs of Error, are only upon failure of Juſtice in *Ireland,* and that ſuits cannot originally be commenced here for things done in *Ireland,* becauſe the King's Writ runs not in *Ireland.*

Anſw.

Anſw. This might be a good Plea in the *Kings Bench*, and inferior Courts at *Weſtminſter-Hall*; the queſtion is, Whether it be ſo in Parliament? The King's Writ runs not within the County-Palatine of *Cheſter* and *Durham*, nor within the Five Ports; nether did it in *Wales*, before the Unction of *Henry* the Eighth's time, after the Laws of *England* were brought into *Wales*, in King *Edward* the Firſt's time, Suits were not originally commenced at *Weſtminſter-Hall* for things done in them; yet this never excluded the Parliament Suits; for Life, Lands, and Goods within theſe Juriſdictions, are determinable in Parliament, as well as in any other Parts of the Realm.

Ireland, as appears by the Statute of the Thirtieth year of *Henry* the Third before-mentioned, is united to the Crown of *England*.

By the Statute of the Eight and twentieth year of *Henry* the Sixth in *Ireland*, it is declared in theſe words, That *Ireland* is the proper Dominion of *England*, and united to the Crown of *England*, which Crown of *England* is of it ſelf, and by it ſelf, wholly and entirely endowed with all Power and Authority ſufficient to yield to the Subjects of the ſame full and plenary remedy, in all Debates and Suits whatſoever.

By the Statute of the Three and twentieth year of *Henry* the Eighth, the firſt Chapter, when the Kings of *England* firſt aſſumed the Title of King of *Ireland*, it is there Enacted, That *Ireland* ſtill is to be held as a Crown annexed and united to the Crown of *England*.

So that by the ſame reaſon, from this that the King's Writ runs not in *Ireland*, it might as well be held, that the Parliament cannot originally hold Plea of Things done within the County-Palatine of *Cheſter* and *Durham*, nor within the *Five Ports* and *Wales*; *Ireland*, is a part of the Realm of *England*, as appears by thoſe Statutes, as well as any of them.

This is made good by conſtant practice in all the Parliament Rolls, from the firſt to the laſt; there are Receivers and Triers of Petitions appointed for *Ireland*; for the Iriſh to come ſo far with their Petitions for Juſtice and the Parliament not to have cognizance, when from time to time they had in the beginning of the Parliament, appointed Receivers and Triers of them, is a thing not to be preſumed.

An Appeal in *Ireland*, brought by *William* Lord *Veſey*, againſt *John Fitz-Thomas*, for Treaſonable words there ſpoken, before any Judgment given in Caſe there, was removed into the Parliament in *England*, and there the Defendant acquitted, as appears in the Parliament Pleas of the Two and twentieth year of *Edward* the Firſt.

The Suits for Lands, Offices and Goods originally begun here are many, and if queſtion grew upon Matter in Fact, a Jury uſually ordered to try it, and the Verdict returned into the Parliament; as in the Caſe of one *Ballyben* in the Parliament of the Five and thirtieth year of *Edward* the Firſt. If a doubt aroſe upon a Matter triable by Record, a Writ went to the Officers, in whoſe Cuſtody the Record remained, to certifie the Record, as was in the Caſe of *Robert Bagott* the ſame Parliament, of the Five and thirtieth year of *Edward* the Firſt, where the Writ went to the Treaſurer, and Barons of the *Exchequer*.

Sometimes they gave Judgment here in Parliament, and commanded the Judges there in *Ireland* to do Execution, as in the great Caſe of *Partition*, between the Copartners of the Earl Marſhal in the Parliament of the Three and thirtieth of *Edward* the Firſt, where the Writ was awarded to the Treaſurer of *Ireland*.

My Lords, The Laws of *Ireland* were introduced by the Parliament of *England*, as appears by three Acts of Parliament before cited.

It is of higher Juriſdiction *Dare Leges*, then to judge by them.

The Parliaments of *England* do bind in *Ireland*, if *Ireland* be particularly mentioned, as is reſolved in the Book-Caſe of the Firſt year of *Henry* the Seventh. *Cook*'s Seventh Report, *Calvin*'s Caſe; and by the Judges in *Trinity* Term, in the Three and thirtieth year of Queen *Elizabeth*. The Statute of the Eighth year of *Edward* the 4*th*, the firſt Chapter in *Ireland* recites, That it was doubted among the Judges, whether all the Engliſh Statutes, though not naming *Ireland*, were in force there? if named, no doubt.

From King *Henry* the Third's time downwards, to the Eighth year of Queen *Elizabeth* (by which Statute it is made Felony to carry Sheep from *Ireland* beyond Seas) in almoſt all theſe Kings Reigns, there be Statutes made concerning *Ireland*. The exerciſing of the Legiſlative Power there, over their Lives and Eſtates, is higher than of the Judicial in queſtion: Until the 29th year of *Edw.* 3. erroneous Judgments given in *Ireland*, were determinable no where but in *England*; no, not in the Parliament of *Ireland*, as it appears in the cloſe Rolls in the *Tower*, in the 29th year of *Edw.* 3. *Memb.* 12. Power to examine and reverſe erroneous Judgments in the Parliaments of *Ireland* is granted; from hence, Writs of Error lye in the Parliament here upon erroneous Judgments, after that time, given in the Parliaments of *Ireland*, as appears in the Parliament Rolls, of the Eighth year of *Henry* the Sixth, N° 70. in the Caſe of the Prior of *Lenthan*. It is true, the Caſe is not determined there, for it's the laſt thing that came into the Parliament, and could not be determined for want of time, but no Exception at all is taken to the Juriſdiction.

The Acts of Parliament made in *Ireland*, have been confirmed in the Parliaments of *England*, as appears by the cloſe Rolls in the *Tower*, in the Two and fortieth year of *Edw.* 3. *Memb.* 20. *Dorſo*: where the Parliament in *Ireland*, for the preſervation of the Country from Iriſh, who had almoſt deſtroyed it, made an Act, That all the Land-owners, that were Engliſh, ſhould reſide upon their Lands, or elſe they were to be forfeited, this was here confirmed.

In the Parliament of the Fourth year of *Henry* the Fifth, *chap.* 6. Acts of Parliament in *Ireland* are confirmed, and ſome Privileges of the Peers in the Parliaments there are regulated.

Power to repeal Iriſh Statutes, Power to confirm them, cannot be by the Parliament here, if it hath not cognizance of their Parliaments; unleſs it be ſaid, that the Parliament may do, it knows not what.

Garnſey and *Jerſey* are under the King's Subjection, but are not parcels of the Crown of *England*, but of the Dutchy of *Normandy*, they are not governed by the Laws of *England*, as *Ireland* is, and yet Parliaments in *England* have uſually held Plea of, and determined all Cauſes concerning Lands or Goods. In the Parliament, in the 33 *Edw.* 1. there be *Placita de Inſula Jerſey*. And ſo in the Parliament, 14 *Edw.* 2. and ſo for *Normandy* and *Gaſcoign*, and always as long as any part of *France* was in ſubjection to the Crown of *England*, there were at the beginning of the Parliaments, Receivers and Triers of Petitions, for thoſe parts appointed.

I believe your Lordſhips will have no Caſe ſhewed of any Plea to the Juriſdiction of the Parliaments of *England*, in any things done in any parts whereſoever in ſubjection to the Crown of *England*.

The laſt thing I ſhall offer to your Lordſhips is, the Caſe of 19 *Eliz.* in my Lord *Dyer*, 306. and Judge *Crompton*'s Book, of the Juriſdiction of Courts

fol.

fol. 23. The opinion of both theſe Books is, That an Iriſh Peer is not triable here; it's true, a Scotch or French Nobleman is triable here, as a common Perſon; the Law takes no notice of their Nobility, becauſe thoſe Countries are not governed by the Laws of *England*; but *Ireland* being governed by the ſame Laws, the Peers there are triable according to the Law of *England* only, *per pares*.

By the ſame reaſon, the Earl of *Strafford*, not being a Peer of *Ireland*, is not triable by the Peers of *Ireland*; ſo that if he be not triable here, he is triable no where.

My Lords, In caſe there be a Treaſon and a Traitor within the Statute, and that he be not triable here for it, in the ordinary way of Judicature, if that Juriſdiction fail, this by way of Bill doth not; Attainders of Treaſon in Parliament, are as legal, as uſual by Act of Parliament, as by Judgment.

I have now done with the Statutes 25 *Edw.* 3. and 18 *Hen.* 6. my Lord of *Strafford* hath offended againſt both the Kingdoms, and is guilty of High-Treaſon by the Laws of both.

My Lords, In the fifth place, I am come to the Treaſons at the Common-Law, the endeavouring to ſubvert the Fundamental Laws and Government of the Kingdom, and to introduce an Arbitrary and Tyrannical Government.

In this I ſhall not at all labour to prove, That the endeavouring by Words, Counſels and Actions, to ſubvert the Laws, is Treaſon at the Common-Law, if there be any Common-Law-Treaſons at all left; nothing is Treaſon, if this be not, to make a Kingdom no Kingdom; take the Polity and Government away, *England*'s but a piece of Earth, wherein ſo many men have their Commorancy and Abode, without Ranks or Diſtinction of Men, without Property in any thing further than poſſeſſion; no Law to puniſh the murthering, or robbing one another.

That of 33 *Hen.* 8. of introducing the Imperial Law, ſticks not with your Lordſhips; it was in the Caſe of an Appeal to *Rome*; theſe Appeals in Caſes of Marriages, and other Cauſes counted Eccleſiaſtical, had been frequent, had in moſt Kings Reign been tolerated; ſome in times of Popery put a Conſcience upon them; the Statutes had limited the Penalty to a *Præmunire* only, neither was that a total Subverſion, only an Appeal from the Eccleſiaſtical Court here in a ſingle Cauſe, to the Court of *Rome*; and if Treaſon or not, that Caſe proves not a Treaſon may be puniſhed as a Felony; a Felony as a Treſpaſs, if his Majeſty ſo pleaſe; The greater includes the leſs in the Caſe of *Præmunire*; in the Iriſh Reports, that which is there declared to be Treaſon, was proceeded upon only as a *Præmunire*.

The things moſt conſiderable in this is, Whether the Treaſons at Common-Law, are taken away by the Statute of 25 *Edw.* 3. which is to ſpeak againſt both the direct words and ſcope of that Statute.

In it there's this Clauſe, *That becauſe many other like Caſes of Treaſon might fall out, which are not there declared; therefore it is enacted, That if any ſuch Caſe come before the Judges, they ſhall not proceed to Judgment, till the Caſe be declared in Parliament, whether it ought to be adjudged Treaſon or not.*

Theſe words, and the whole ſcope of that Statute ſhews, that it was not the meaning to take away any Treaſons that were ſo before, but only to regulate the Juriſdiction and Manner of Trial. Thoſe that were ſingle and certain Acts, as Conſpiring the King's Death, Levying War, Counterfeiting the Money, or Great Seal, Killing a Judge; theſe are left to the

ordinary Courts of Juſtice: The others not depending upon ſingle Acts, but upon Conſtructions and neceſſary Inferences, they thought it not fit to give the Inferior Courts ſo great a latitude here, as too dangerous to the Subject, thoſe they reſtrained to the Parliament.

This Statute was the great Security of the Subjects, made with ſuch wiſdom, as all the ſucceeding Ages have approved it; it hath often paſſed through the Furnace, but like Gold, hath left little or nothing.

The Statute of the Firſt *H.*4.*cap.*10. is in theſe words, *Whereas in the Parliament held the* 21 *year of* Richard *the Second, divers pains of Treaſons were ordained, inſomuch that no man did know to behave himſelf, to do, ſay, or ſpeak: It is accorded that in no time to come, any Treaſon be adjudged otherwiſe, than it was ordained by the Statute of* 25 Edw. 3.

It hath been ſaid, To what end is this Statute made, if it takes not away the Common Law Treaſons remaining after the Statute of the 25th of *Edw.* 3?

There be two main things which this Statute doth; *Firſt*, It takes away for the future all the Treaſons, made by any Statute ſince 25 *E.* 3. to the 1 *H.* 4. even to that time; for in reſpect, that by another Act in that Parliament, the Statute of 21 *Rich.* 2. was repealed, it will not be denied, but that this Statute repeals more Treaſons than theſe of 21 *R.*2. It repeals all Statute-Treaſons but thoſe in 25 *Edw.* 3.

Secondly, It not only takes away the Statute-Treaſons, but likewiſe the declared Treaſons in Parliament, after the 25th of *Edw.* 3. as to the future, after Declaration in Parliament, the inferior Courts might judge theſe Treaſons; for the Declaration of a Treaſon in Parliament after it was made was ſent to the inferior Courts, that *toties quoties* the like Caſe fell out, they might proceed therein, the Subject for the future, was ſecured againſt theſe; ſo that this Statute was of great uſe.

But by the very words of it, I ſhall refer all Treaſons to the proviſion of 25 *Edw.* 3. it leaves that entire, and upon the old bottom. The Statute of 1 Q. *Mary*, *cap.* 1. ſaith, That no Offences made Treaſon by any Act of Parliament, ſhall thenceforth be taken or adjudged to be Treaſon, but only ſuch as be declared and expreſſed to be Treaſon by the Statute of 25 *Edw.* 3. *Concerning Treaſon, or the Declaration of Treaſon*, and no others: And further provides, *That no pains of death, penalties, or forfeiture in any wiſe ſhall enſue, for committing any Treaſon, other than ſuch as be in the Statute of* 25 Edw. 3. *ordained and provided, any Act of Parliament, or any Declaration, or Matter to the contrary, in any wiſe notwithſtanding.*

By the firſt of this Statute, only Offences made Treaſon by Act of Parliament, are taken away, the Common-Law-Treaſons are no ways touched, the words [*And no others*] refers ſtill to Offences made Treaſon by Act of Parliament; they reſtrain not to the Treaſons only, particularly mentioned in the Statute of the 25th *Edw.* 3. but leave that Statute entire to the Common-Law-Treaſon, as appears by the words immediately foregoing.

By the ſecond Part, for the pains and forfeitures of Treaſons, if it intend only the puniſhment of Treaſon, or if it intend both Treaſon and Puniſhment, yet all is referred to the Proviſion and Ordinance of 25 *Edw.* 3. any Act of Parliament, or other Declaration, or Thing notwithſtanding.

It ſaith not, other then ſuch Penalties or Treaſons, as are expreſſed and declared in the Statute of 25 *Edw.* 3. that might perhaps have reſtrained it to thoſe that are particularly mentioned, no, it refers all Treaſons to the

the general Ordination and Proviſion of that Statute, wherein the Common Law Treaſons are expreſly kept on foot.

If it be asked, What good this Statute doth, if it take not away the Common-Law-Treaſon?

1. It takes away all the Treaſons made by Act of Parliament, not only ſince the firſt of *Hen.* 4. which were many, but all before 1 *Hen.* 4. even until the 25 *E.* 3. by expreſs words.

2. By expreſs words, it takes away all declared Treaſons, if any ſuch had been in Parliament; Thoſe for the future are likewiſe taken away; ſo that whereas it might have been doubted, whether the Statute of the 1 *H.* 4. took away any Treaſons, but thoſe of the 22d and 23d years of *R.* 2. This clears it, both for Treaſons made by Parliament, or declared in Parliament, even to the time of making the Statute.

This is of great uſe, of great ſecurity to the Subject; ſo that, as to what ſhall be Treaſon, and what not, the Statute of 25 *E.* 3. remains entire, and ſo by conſequence the Treaſons at the Common Law.

Only, my Lords, it may be doubted, whether the manner of the Parliamentary proceedings, be not altered by the Statute of 1 *H.* 4. *chap.* 17. and more fully in the Parliament Roll, Numb. 144. that is, whether ſince that Statute the Parliamentary Power of Declaration of Treaſons, whereby the inferior Courts receive Juriſdiction, be not taken away and reſtrained only to Bill; that ſo it might operate no further, then to that particular contained in the Bill, that ſo the Parliamentary Declarations for after-times, ſhould be kept within the Parliament it ſelf, and be extended no further: Since 1 *H.* 4. we have not found any ſuch Declarations made, but all Attainders of Treaſon have been by Bill?

If this be ſo, yet the Common-Law-Treaſons ſtill remaining, there is one and the ſame ground of reaſon and equity ſince 1 *H.* 4. for paſſing a Bill of Treaſon, as was before, for declaring of it without Bill.

Herein the Legiſlative Power is not uſed againſt my Lord *Strafford* in the Bill, it's only the Juriſdiction of the Parliament.

But, my Lords, becauſe that either through my miſtaking of the true Grounds and Reaſons of the Commons, or my not preſſing them with apt Agreements, and Preſidents of former Times, or that perchance your Lordſhips, from ſome other Reaſons and Authorities, more ſwaying with your Lordſhips Judgments, then theſe from them, may poſſibly be of a contrary or dubious Opinion, concerning theſe Treaſons, either upon the Statutes of 25 *E.* 3. & 18 *H.* 6. or at the Common-Law.

My Lords, If all theſe five ſhould fail, they have therefore given me further in command, to declare to your Lordſhips ſome of their Reaſons, why they conceive that in this Caſe, the meer Legiſlative Power may be exerciſed.

There Reaſons are taken from theſe three grounds;

1. From the Nature and Quality of the Offence.

2. From the Frame and Conſtitution of the Parliament, wherein this Law is made.

3. From Practices and Uſages of former times.

The

The horridneſs of the Offence, in endeavouring the overthrowing the Laws and preſent Government, hath been fully opened to your Lordſhips heretofore.

The Parliament is the Repreſentation of the whole Kingdom; wherein the King as Head, your Lordſhips as the moſt Noble, and the Commons the other Members, are knit together into one Body Politick; This diſſolves the Arteries and Ligaments that hold the Body together, the Laws; He that takes away the Laws, takes not away the Allegiance of one Subject alone, but of the whole Kingdom.

It was made Treaſon by the Statute of 13 *Eliz.* for Her time, to affirm, That the *Laws* of the Realm do not bind the Deſcent of the Crown; no *Law*, no Deſcent at all.

No Laws, no Peerage; no Ranks or Degrees of Men; the ſame Condition to all.

It's Treaſon to kill a Judge upon the Bench; this kills not *Judicem, ſed Judicium*; He that borrowed *Apelles*, and gave Bond to return again *Apelles* the Painter, ſent him home, after he had cut off his Right Hand; his Bond was broken; *Apelles* was ſent, but not the Painter. There are Twelve Men, but no Law; there's never a Judge amongſt them.

It's Felony to imbezzle any one of the Judicial Records of the Kingdom; this at once ſweeps them all away, and from all.

It's Treaſon to Counterfeit a Twenty ſhillings piece; here's a Counterfeiting of the Law; we can call neither the Counterfeit, nor True Coyn, our own.

It's Treaſon to Counterfeit the Great Seal for an Acre of Land; no Property hereby is left to any *Land* at all; nothing Treaſon now, either againſt King or Kingdom; no *Law* to puniſh it.

My Lords, If the Queſtion were asked at *Weſtminſter-Hall*, Whether this were a Crime puniſhable in *Star-Chamber*, or in the *Kings Bench*, by Fine, or Impriſonment? they would ſay it went higher: If whether Felony? they would ſay, that's for an Offence only againſt the Life, or Goods of ſome one or few Perſons; It would, I believe, be anſwered by the Judges, as it was by the Chief Juſtice *Thurning* in 21 *R.* 2. that though he could not judge the Cauſe Treaſon there before him, yet if he were a Peer in Parliament, he would ſo Adjudge it.

My Lords, If it be too big for thoſe Courts, we hope it's in the right way here.

2. The ſecond Conſideration is from the Frame and Conſtitution of the Parliament; the Parliament is the great Body Politick, it comprehends all, from the King to the Beggar; if ſo, my Lords, as the Natural, ſo this Body, it hath power over it ſelf, and every one of the Members, for the preſervation of the whole; It's both the Phyſician and the Patient; If the Body be diſtempered, it hath power to open a Vein, to let out the corrupt Blood for curing it ſelf; if one Member be poiſoned or gangred, it hath power to cut it off for the preſervation of the reſt.

But, my Lords, it hath often been inculcated, that *Law*-makers ſhould imitate the Supream *Law*-giver, who commonly warns before he ſtrikes. The *Law* was promulged before the Judgment of Death for gathering the ſticks. No *Law*, no Tranſgreſſion.

My *Lords*, To this Rule of *Law* is *Fruſtra legis auxilium invocat, qui in legem committit*, from the *Lex talionis*; he that would not have had others

to

to have a Law, Why ſhould he have any himſelf? Why ſhould not that be done to him, that himſelf would have done to others?

It's true, we give Law to Hares and Deers, becauſe they be Beaſts of Chaſe; It was never accounted either cruelty or foul play, to knock Foxes and Wolves on the head; as they can be found, becauſe theſe be Beaſts of Prey. The Warrener ſets Traps for Polcats and other Vermine, for preſervation of the Warren.

Further, my Lords, moſt dangerous Diſeaſes, if not taken in time, they kill; Errors, in great things, as War and Marriage, they allow no time for repentance; it would have been too late to make a Law, when there had been no Law.

My Lords, For further Anſwer to this Objection, he hath offended againſt a Law, a Law within the endeavouring to ſubvert the Laws and Polity of the State wherein he lived, which had ſo long, and with ſuch faithfulneſs protected his Anceſtry, Himſelf, and his whole Family: It was not *Malum quia prohibitum*, it was *Malum in ſe*, againſt the Dictates of the dulleſt Conſcience, againſt the Light of Nature, they not having a Law, were a Law to themſelves.

Beſides this, he knew a Law without, that the Parliament, in Caſes of this Nature, had *Poteſtatem vitæ & necis.*

Nay, he well knew, that he offended the Promulged and Ordinary Rules of Law. Crimes againſt Law have been proved, have been Confeſſed, ſo that the Queſtion is not *De culpa, ſed de pœna*, What degree of Puniſhment thoſe Faults deſerve? We muſt differ from him in Opinion, That twenty Felonies cannot make a Treaſon, if it be meant of equality in the uſe of the Legiſlative Power; for he that deſerves Death for the one of theſe Felonies alone, deſerves a Death more painful, and more Ignominious for all together.

Every Felony is puniſhed with loſs of Life, Lands and Goods; a Felony may be aggravated with thoſe Circumſtances, as that the Parliament with good reaſon may add to the Circumſtances of Puniſhment, as was done in the Caſe of *John Hall*, in the Parliament of the 1 *H.* 4. who for a Barbarous Murder, committed upon the Duke of *Glocester*, ſtifling him between two Feather-Beds at *Calice*, was Adjudged to be Hanged, Drawn and Quartered.

Batteries by Law are only puniſhable by Fine, and ſingle Damages to the Party wounded.

In the Parliament held in 1 *H.* 4. *cap.* 6. one *Savage* committed a Battery upon one *Chedder*, Servant to Sir *John Brooke*, a Knight of the Parliament for *Somerſetſhire*. It's there Enacted, That he ſhall pay double damages, and ſtand Convicted, if he render not himſelf by ſuch a time. The manner of proceedings quickned, and the Penalty doubled; the Circumſtances were conſidered, it concerned the Commonwealth, it was a Battery with Breach of Priviledge of Parliament.

This made a perpetual Act: no warning to the firſt Offender: and in the *Kings Bench*, as appears by the Book-Caſe of 9 *H.* 4. the firſt leaf, double Damages were recovered.

My Lords, In this of the Bill, the Offence is High and General, againſt the King and the Commonwealth, againſt all, and the beſt of all.

If every Felony be loſs of Life, Lands and Goods; What is Miſuſer of the Legiſlative Power, by Addition of Ignominy, in the Death and Diſpoſal of the Lands to the Crown, the Publick Patrimony of the Kingdom?

But

But it was hoped, that your Lordſhips had no more skill in the Art of killing Men, then your worthy Anceſtors.

My Lords, This Appeal from your ſelves to your Anceſtors we do admit of, although we do not admit of that from your Lordſhips to the Peers of *Ireland*.

He hath appealed to them; your Lordſhips will be pleaſed to hear, what Judgment they have already given in the Caſe, that is, the ſeveral Attainders of Treaſon in Parliament; after the Statute of 25 *E.* 3. for Treaſons not mentioned, nor within that Statute, and thoſe upon the firſt Offenders without warning given.

By the Statute of 25 *E.* 3. it's Treaſon to levy War againſt the King; *Gomines* and *Weſton* afterwards in Parliament, in the 1 *R.* 2. *n.* 38, 39. adjudged Traitors for ſurrendring two ſeveral Caſtles in *France*, only out of fear, without any Compliance with the Enemy; this not within Statute of 25 *E.* 3.

My Lords, In the Third of *Richard* the Second, *John Imperiall* that came into *England* upon Letters of Safe Conduct, as an Agent for the State of *Genoa*, ſitting in the Evening before his Door, in *Breadſtreet* (as the words of the Records are) *Paulo ante ignitegium*; *John Kirkby*, and another Citizen, coming that way, caſually *Kirkby* trod upon his Toe, it being twilight, this grew to a Quarrel, and the Ambaſſador was ſlain; *Kirkby* was Indicted of High-Treaſon, the Indictment finds all this, and that it was only done *ſe defendendo*, and without malice.

The Judges, it being out of the Statute 25 *E.* 3. could not proceed; the Parliament declared it Treaſon, and Judgment afterwards of High-Treaſon: there's nothing can bring this within the Statute of 25 *E.* 3. but it concerns the Honour of the Nation, that the Publick Faith ſhould be ſtrictly kept: It might endanger the Traffick of the Kingdom; they made not a Law firſt, they made the firſt Man an Example; this is in the Parliament Roll 3 *R.* 2. *Number* 18. and *Hilary* Term, 3 *R.* 2. *Rot.* 31. in the *Kings Bench*, where Judgment is given againſt him.

In 11 *R.* 2. *Treſilian*, and ſome others, attainted of Treaſon for delivering Opinions in the Subverſion of the Law, and ſome others for plotting the like. My Lords, the Caſe hath upon another occaſion been opened to your Lordſhips; only this is obſervable, that in the Parliament of the firſt year of *Henry* the Third, where all Treaſons are again reduced to the Statute of 25 *E.* 3. Theſe Attainders were by a particular Act confirmed and made good, that the memory thereof might be tranſmitted to ſucceeding Ages, they ſtand good unto this day; the Offences there as here, were the endeavouring the Subverſion of the Laws.

My Lords, After the 1 *H.* 4. Sir *John Mortimer* being committed to the *Tower*, upon Suſpicion of Treaſon, brake Priſon, and made his eſcape; This no way within any Statute, or any former Judgment at Common-Law for this, that is, for breaking the Priſon only, and no other cauſe; in the Parliament held the ſecond year of *Henry* the Sixth, he was attainted of High-ſon by Bill.

My Lords, Poiſoning is only Murder, yet one *Richard Cooke* having put Poiſon into a Pot of Pottage in the Kitchin of the Biſhop of *Rocheſter*, whereof two Perſons died, he's Attainted of Treaſon, and it was Enacted, That he ſhould be Boiled to Death by the Statute of 22 *H.* 8. *c.* 9.

By the Statute of the 25 H. 8. *Elizabeth Barton* the Holy Maid of *Kent*, for pretending Revelations from God, That God was highly diſpleaſed with the King, for being Divorced from the Lady *Katharine*, and that in

caſe

caſe he perſiſted in the Separation, and ſhould Marry another, that he would not continue King not above one Month after, becauſe this tended to the depriving of the lawful Succeſſion to the Crown, ſhe is Attainted of Treaſon.

My Lords, All theſe Attainders, for ought I know, are in force at this day. The Statutes of the Firſt year of *Henry* the Fourth, and the Firſt of Queen *Mary*, although they were willing to make the Statute of 25 *E.* 3. the Rule to the Inferiour Courts, yet they left the Attainders in Parliament, precedent to themſelves, untoucht, wherein the Legiſlative power had been exerciſed. There's nothing in them whence it can be gathered, but that they intended to leave it as free for the future.

My Lords, In all theſe Attainders, there were Crimes and Offences againſt the Law; they thought it not unjuſt (Circumſtances conſidered) to heighten and add to the degrees of Puniſhment, and that upon the firſt Offender.

My Lords, We receive, as juſt, the other Laws and Statutes made by theſe our Anceſtors, they are the Rules we go by in other Caſes, Why ſhould we differ from them in this alone?

Theſe, my Lords, are in part thoſe things, which have ſatisfied the Commons in paſſing the Bill, it is now left to the Judgment and Juſtice of your Lordſhips.

Upon the Cloſe of Mr. *St. Johns* Speech the Houſe adjourned, nor was there one word ſpoken but by Mr. *St. Johns*, only the Lord Lieutenant uſed the laſt part of his Rhetorick, and by a dumb Eloquence, *Manibus ad ſydera tenſis*, often holding up his hands towards Heaven, all along Mr. *St. Johns* Speech, made his Replies with a deep ſilence.

Upon *Friday*, *April* the 30*th*, he petitioned the Lords to be heard again, alledging, That his Lawyers had not fully ſpoken at their laſt meeting, but this was denied him, becauſe the Houſe of Commons were to have the laſt Speech, nor were they content to ſpeak again.

The following SPEECH *of Mr.* Glyn's, *is, by a Miſtake miſplaced; for it ought to be next to my Lords Summary of the Evidence.*

Mr. GLYN's

REPLY

TO THE

Earl of Strafford's

DEFENCE.

My Lord of Strafford *having concluded the Recapitulation of his Evidence; Mr.* Glyn *applied himself to their Lordships in manner following.*

May it please your Lordships,

MY Lord of *Strafford* (as your Lordships have observed,) hath spent a great deal of time in his Evidence, and in his Course of Answering, hath inverted the order of the Articles; he hath spent some time likewise in defending the Articles not objected against him, wherein he hath made a good Answer, if in any: we shall presume to withdraw a while, and rest upon your Lordships patience; and I doubt not to represent my Lord of *Strafford* as cunning in his Answer, as he is subtil in his Practice.

The Committee withdrawing for about the space of half an hour, and then returning to the Bar, Mr. Glyn *proceeded as followeth.*

My Lords, your Lordships have observed how the Earl of *Strafford* hath been accused by the Commons of *England* of *High Treason, for a Purpose and Design to Subvert the Fundamental Laws of both the Kingdoms, of* England *and* Ireland, *and to introduce an Arbitrary and Tyrannical Government:* The Commons have exhibited Articles in maintenance of that Charge: My Lord of *Strafford* hath thereunto answered in Writing. The Commons have proceeded to make good their Charge by proof, and thereunto my Lord of *Strafford* hath made his Defence; and this day my Lord

of

of *Strafford* hath taken upon him to recollect his Evidence, and make his obſervation upon it, the moſt he could to his advantage.

My Lords, We that are intruſted for the Houſe of Commons, ſtand here to recollect the Evidence on our part, and to apply it to the general Charge, and how far it conduces thereunto.

My Lord of *Strafford* in recollecting the Evidence of his Defence, as I did mention before, hath (under favour) expreſt very much ſubtilty, and that in divers particulars, which I ſhall repreſent to your Lordſhips.

My Lords, before I enter upon the Recollection of the Proofs produced on the behalf of the Commons, I ſhall make ſome Obſervations, and give ſome Anſwer to that Recollection of his; though very diſorderly to the method I propounded to my ſelf.

And firſt, in general, it will appear to your Lordſhips, (looking upon your Notes, and obſerving his Recollection) that he hath uſed the repetition of Evidence on both ſides, in ſuch manner as you know who uſeth Scripture; that is, to cite as much as makes for his purpoſe, and leave out the reſt. And likewiſe, that in repetition of the Evidence, he hath miſrecited plainly, very much of the Proofs on both ſides, and likewiſe hath pretended ſome Proofs to be for his Defence, which indeed were not: and he hath taken this farther advantage; when it makes for his Defence, he hath disjoynted the Proofs and Teſtimonies, and ſevered them aſunder, that it might appear to your Lordſhips, like Rain falling in drops, which conſidered in diſtinct drops, bring no horror, or ſeeming inconvenience with them; but when they are gathered together into an entire body, they make an Inundation, and cover the face of the Earth. He would not have your Lordſhips look on thoſe Teſtimonies together, but diſtinctly and aſunder, which being put together, look horrid, as will appear to your Lordſhips, when you duly conſider of them.

Theſe be the general Obſervations, which in my Anſwer I doubt not but to make good: But before I ſhall enter into obſervations of what he hath ſpoken, I ſhall anſwer in general to ſome things which he hath in general alledged.

In the firſt place, he hath made a flouriſh this day, and ſeveral other days in the way of his Defence, *That if he could have had longer time, he could have made things appear cleare, and have produced more proofs.* Give me leave to inform your Lordſhips, that he is no way ſtreightned of time, for he hath been charged above three months ſince: he knew what was laid to his Charge, and therefore his pretence of want of time, and of his diſabilities to make better proofs, are but *flouriſhes.* And it appears plainly, whatſoever he hath had occaſion to make uſe of, even the leaſt paper, though he fetched it from *Ireland*, there is not one wanting; he hath Copies of Papers from the Council-Table, from the Parliaments of *Ireland*, and all that may any way tend to his juſtification, and yet he ſtands upon that *flouriſh, that if he had had time, he could have made it more clear.*

My Lords, He hath mentioned often this day, and oftner the days before, *That many of the Articles laid to his charge, are proved but by one Witneſs*; and thereupon he takes the advantage of the Statute of *E. 6.* that ſays, *A man ought not to be condemned for High Treaſon, without two Witneſſes.* My Lords, this is a *fallacy* known to his own breaſt, I doubt not, and not taught him by any of his Counſel, or others Learned.

The Treaſon laid to his charge, is, *The ſubverting of the Laws*; the Evidence is, the *Article* proved: and though ſome one *Article* appears to be proved but by one, yet put the Evidence together, ye ſhall never

find it to be within the words or meaning of the Statute; for the Charge is proved by a hundred Witneſſes: and becauſe one part of the Evidence is proved only by one Witneſs, ſince, when you put them together, you will find a hundred Witneſſes, it is not within the words, nor meaning of the Statute, neither will his Counſel direct him to ſay ſo, I am confident.

My Lords, Another obſervation I ſhall be bold to make, is, that he was pleaſed to caſt an Aſperſion (as we muſt apprehend) upon them that are truſted by the Houſe of Commons this day, That we that ſtand here alledged and affirmed things to be proved, that are not proved. He might have pleaſed to have ſpared that language; we ſtand here to juſtifie our ſelves, that we do not uſe to expreſs any language, but what our hearts and conſciences tell us is true; and howſoever he is pleaſed to caſt it upon us, I am confident I ſhall invert it upon himſelf, and make it appear, that he hath been this day guilty in the higheſt degree, of what he moſt unjuſtly layeth to our Charge.

And now, my Lords, to enter upon the Particulars he hath been pleaſed to make it his general Theme to day (though he hath not ſpoke much to day but what he hath ſpoken formerly) that theſe Particulars conſidered by themſelves *make not a Treaſon, and therefore put together, he wonders how they ſhould make a Treaſon: Several Miſdemeanors can never make a Murther, and ſeveral Murthers can never make a Treaſon; and he wonders it ſhould be otherwiſe in this Caſe.* My Lords, He did inſtance it (if my memory fails not) in a Caſe of Felony; *That if a bloody knife ſhould be produced in the hand of the party ſuſpected to have ſlain the man, if the party had been there ſeen before the death, it were a ſtrange Evidence; but there muſt be death in the caſe, the fact muſt be committed, elſe there can be no murther:* but he himſelf might anſwer himſelf, for there is a great difference; There cannot be Murther but there muſt be Death, but he knows very well there may be Treaſon and yet no Death; it is too late to forbear queſtioning Treaſon *for killing the King, till the King be killed:* God forbid we ſhould ſtay in that caſe, for the *very intention* is the Treaſon, and it is the *intention of the death of the Law* that is in queſtion, and it had been too late to call him to queſtion, to anſwer with his life, for the death of the Law, if the Law had been killed, for there had been no Law then; and how ſhould the Law then have adjudged it Treaſon, when the ſame were ſubverted and deſtroyed? and therefore he is much miſtaken.

The greateſt Traitor, in the memory of any that ſits here to hear me this day, had a better, a fairer excuſe in this particular, than my Lord of *Strafford*, and that is *Guido Faux*; for he might have objected, that the taking of the Cellar, the laying of the Powder under the Parliament-Houſe, the kindling of the Match, and putting it near, are not ſo much as a miſdemeanor, if you look no further; for it was no offence in him to lay Barrels under the Parliament-Houſe, and to kindle the Match, and to lay it near; but collect all together, that it was *eâ intentione, to blow up the King and the State*, there is the Treaſon: but God be bleſſed it was not effected; ſo that the Rule is the ſame. Nay, my Lord of *Strafford* hath not ſo much to ſay, when he is charged with a purpoſe and intention to ſubvert the Law; for to that purpoſe gave he traiterous Counſels and executed actions, thereby diſcovering his intentions to deſtroy the Kingdom, and to deſtroy the King's Claim by Law, and Diſcent. It is true, they were not put in execution, but they declared his intentions; therefore this gives an anſwer to his firſt flouriſh, which is not ſo great an Argument as the greateſt

greateſt Traitor might uſe for himſelf, and yet it proved Treaſon in him.

My Lords, He hath been pleaſed to divide his Treaſons into two parts, and his diviſion I allow of; that is, Treaſon by Statute-Law, as he terms it, though it be Treaſon by the Common-Law; and conſtructive Treaſon: And upon that method he hath recited the Evidence produced on either part; Give me leave to follow and trace him a little, and afterwards to diſcharge my own Duty in taking my own Courſe, and repreſenting the Evidence as it appears, truly; and I will avoid (as much as I can) to fall into my Lord of *Strafford*'s error, in miſ-reciting a *Particle*; if I do, it ſhall be againſt my Will.

He begins with the Fifteenth Article, and pretends that it is not proved: The ground and foundation of that *Article*, was a Warrant iſſued out by himſelf to a Sergeant at Arms, one *Savill*, which gave directions and power to that Sergeant, to lay Soldiers on any Perſon that ſhould contemn the Proceſs of the Council-board in *Ireland*; that was the effect: Now (ſays he) *this Warrant is not produced*, and adds, *That the Judges will tell your Lordſhips, that if a man be charged with any thing under Hand and Seal, the Deed muſt be produced and proved, or elſe no credit is to be given to it.* Truly, my Lords, it is true, if it had been a Bond, or a Deed, where thoſe that Seal it, uſe to call their Neighbours to teſtifie, and be Witneſſes to it, perhaps it might be a colourable Anſwer, that becauſe we do not produce the Deed, and prove it by Witneſſes, you can therefore give no credit to it: But, my Lords, in caſe of Authority to commit High Treaſon, I ſuppoſe my Lord of *Strafford*, nor any other, did call Witneſſes to prove the Signing, Sealing, and Delivering of the Warrant for Execution of High Treaſon; and therefore it is a new way and invention found out by his Lordſhip, for ought I ſee, to commit High Treaſon, and to give Authority for it; and it is but taking away the Original Warrant, and he ſhall never be touched for any Treaſon. But I beſeech your Lordſhips patience, till I come to open that Article, and your Lordſhips will find the Warrant, (though it be not produced,) proved by three or four Witneſſes, and his Hand and Seal proved too. And whereas he pretends the Sergeant at Arms is no competent Witneſs, becauſe he excuſes himſelf; my Lord miſtakes himſelf, for I take it to be no excuſe, to prove a Warrant from any perſon whatſoever, if it be to commit High Treaſon: and therefore *Savill*'s teſtimony is the more ſtrong, being ſo far from excuſing, that he doth accuſe himſelf: And though he is charged with laying of Soldiers upon the Kings people, contrary to an expreſs Act of Parliament made in 18 *H.* 6. yet my Lord is pleaſed (I know not how to term it, whether it be merrily or otherwiſe) to uſe his Rhetorick, *Here is a great levying of War, when there is not above four Muſquetiers, or ſix at moſt, laid upon any one man.*

My Lords, It is a plain levying of War, and without all queſtion, and in all ſenſe, it is as much miſchievous to me to be ſurprized by four or ſix Muſquetiers to enforce me to any thing they would have, as if there were an Army of Forty thouſand brought upon me; for if that ſtrength will but over-maſter me, it is all one to me, whether I be maſtered by four, or by four thouſand. And therefore let not this be a Rule, that to ſend four, or ſix, or ten Muſquetiers up and down, is not conſiderable, becauſe of the ſmalneſs of the number (the danger is the ſame;) yet *this is no levying of War; becauſe they go not in Troops of greater number*, as it pleaſes my Lord of *Strafford* to affirm.

My

My Lords, Your Lordſhips remember what the effect of the Warrant is ſworn to be, that howſoever the Sergeant at Arms, and his Miniſters that executed it, brought but four, or ſix, or ten, yet the Sergeant might have brought all the Army of *Ireland*, for there was Authority ſo to do.

And admitting the Matter of Fact proved, he mentions an Act of Parliament made 11 *Eliz.* whereby a Penalty is laid upon men that ſhall lay Soldiers on the King's Subjects, *and yet* (as my Lord obſerves) *it muſt now be Treaſon in the Deputy.*

My Lords, The very caſting of an eye upon that Act, ſhews it to be as vainly objected, as if he had ſaid nothing; for in truth it is no other, than as if he ſhould ſay, *The King hath given me the Command of an Army in* Ireland, *and therefore I may turn them upon the bowels of the Kings Subjects.* It is no more in effect.

Your Lordſhips heard him the other day mentioning two Acts of Repeal, and I expected he would have inſiſted upon them; but it ſeems he hath been better adviſed, and thinks them not worthy repetition, nor indeed are they. And if the Matter of Fact be proved upon the Fifteenth *Article*, I am confident he will find the Statute of 18 *H.* 6. to be of full force.

My Lords, I am very ſorry to hear, that when levying of War upon the Kings Subjects is in agitation, and he charged with High Treaſon, he ſhould make mention of the *Yorkſhire* men, and the Army now on foot, whereby he would inſinuate, that *if he be charged with High Treeſon, then they muſt be likewiſe*, though they lie quartered, and have meat and drink with the aſſent of the People; which may breed ill blood for ought I know.

From the Fifteenth *Article* he deſcends to the Three and twentieth, and that is the *Article* whereby he ſtands charged with *ſpeaking of Words, and giving of Counſel to his Majeſty, to incenſe him againſt his Parliament, pretending a neceſſity, and telling him, he is looſe and abſolved from all rules of Government; that he had an Army in* Ireland, *which he might make uſe of to reduce this Kingdom.* In this he is pleaſed to begin with the Teſtimony of my Lord *Ranelagh*, conceiving an apprehenſion and fear in him, that the Army ſhould go over to *England*, which my Lord ſays, *is no more but his ſaying, and Mr. Treaſurer* Vane's.

I pray God my Lord *Ranelagh* had not much cauſe to fear; but by the ſame Rule he may lay a Charge of unwarrantable fear upon all the Commons; for ſure the Commons of *England* did fear it, elſe they would not make an *Article* of it: but my Lord *Ranelagh*'s fear did not riſe from a ſlight cauſe, and he ſhewed himſelf a good Commmonwealths-man in expreſſing it, and he is to be commended for it, howſoever it be apprehended by my Lord of *Strafford*.

For his obſervation of the ſingle Teſtimony of Mr. Treaſurer *Vane*, give me leave to take the ſame latitude as his Lordſhip did; for he ſhews to three or four Articles what he could have proved; as to the Article concerning the Army, *he could have proved the deſign of it by Sir* John Burlacy, *and ſome others if they had been here.* But by this rule and liberty, he hath taken to alledge that he could have ſhown, give me leave to tell you what we might have ſhown, and are ready to ſhow: we could have made it expreſs, and proved it by Notes, taken by Secretary *Vane*, the Fifth of *May*, when the words were ſpoken, which Notes ſhould have been proved, if we had proceeded on the Three and twentieth *Article*, to corroborate the Teſtimony of Mr. Secretary *Vane*, and that by two Witneſſes.

We

We could likewiſe have ſhown how we came to the knowledge of it, it being by means unknown to Mr. Secretary *Vane*, and have made him an upright Counſellor and Witneſs; but we ſhall prove his Intentions to bring in the Iriſh Army another way, when I come to open my own Courſe and Method.

My Lords, He pretends theſe words were ſpoken the Fifth of *May*, but when they were teſtified by Mr. Treaſurer, he did not ſpeak of the Fifth of *May*, and yet now my Lord remembers the day: and I wonder how he came to the knowledge of the day, unleſs he likewiſe remembred the words.

But that my Lord obſerves, is, *That being ſpoken then, how ſhould he perſwade the King, that he had an Army in* Ireland, *when in truth he had none there? for the Army was not on foot till a month after.* This, my Lords, is plainly anſwered; and if he had thought of his own Anſwer, he had anſwered himſelf: for he tells you, *That in* April *before, he had taken a courſe for the levying of the Army, he had nominated the Officers, giving direction for raiſing it: and the day of the Rendezvous of the Army was appointed the Eighteenth of* May. And ſo in his own Anſwer he makes an Anſwer to the Objection, and the Objection is taken away out of his own Confeſſion.

From that Article he falls to the Seven and twentieth Article, whereby he ſtands charged with *Levying Money by force upon the King's People in* Yorkſhire: he is pleaſed to obſerve *that all the proof for the maintenance of that Army, is only the levying the Money by four Soldiers by Sergeant-Major* Yaworth; where he is pleaſed to diſclaim the War, becauſe it was ſo weak; yet it was too ſtrong for them (God help them) that were forced upon pain of Life to pay it. And whereas he pretends the Warrant was not from him, I ſhall reſerve that till I come to the Article, and when I come to the proofs, I believe it will remain fixed upon him.

And there he left his Statute-Treaſon, and now he falls to the ſecond kind of Treaſon, and that was the introductive or conſtructive Treaſon: He begins with the third Article, that is, concerning ſome words that he ſhould be charged to have ſpoken in *Ireland*; and I ſhall deſire that your Lordſhips would be pleaſed to look upon your Notes, how he anſwers that Article; *My Lords*, ſays he, *I am charged to ſay that* Ireland *was a conquered Nation, and that her Charters were nothing worth, and bind the King no further than he pleaſeth; therefore I am a Traitor becauſe I ſpeak the Truth.* There was his Anſwer in his Collection. And for their Charters, he ſays, *he might very well ſay ſo, for he intended it no otherwiſe, but according to the validity of them, for they were ſeveral ways queſtionable, and ought not to bind unleſs they were good in Law.* But if you look upon his Arguments, he hath like a cunning Orator, omitted the principal part of the Article; and that is, *That* Ireland *is a conquered Nation, and they were to be governed as the King pleaſeth, the King might do with them what he liſt*; this he omits, although they be proved by three Witneſſes, and are appliable to his intentions fully; yet he could make uſe of ſo much as makes for him, and leaves out the reſt, like your Lordſhips know whom.

Then he deſcends to the fourth Article, and this concerns ſome words he ſhould ſpeak, upon an occaſion betwixt him and my Lord of *Cork*, that he ſhould tell my Lord of *Cork He would have neither Law nor Lawyers diſpute nor queſtion his Orders.* And upon another occaſion, *That he would make my Lord of* Cork, *and all* Ireland *know, that all Acts of State* (which are Acts of Council) *there made, or to be made, ſhould be as binding as any Act of Parliament.* This he ſaid was proved but by one witneſs: And I extreamly

marvel

marvel to hear him ſay ſo; for the latter words we proved by four, or five, or ſix Witneſſes, that is, *That he would have Acts of State, as binding as Acts of Parliament.* Whereas he ſays, theſe are all the words produced againſt him in the time of ſeven years Government there; your Lordſhips have heard of many words, and if we would trouble your Lordſhips further in this kind, we could prove ſuch words ſpoken, as often almoſt as he remained days in *Ireland*, that is, for the miſ-recital. The other part two Witneſſes proved; but the reſidue, *That they muſt expect Law from the King as a Conqueror, That Acts of State ſhould be equal to Acts of Parliament, and when an Act of Parliament would not paſs, he would make it good by an Act of State*, theſe Speeches at other times were proved by five Witneſſes.

Then he falls back to the ſecond *Artile*, touching the words, *That the King's little finger ſhould be heavier than the loins of the Law.*

My Lords, Theſe words were proved expreſly by five Witneſſes, to be by him ſpoken; and if he had produced five hundred that had ſaid he did not ſpeak them, they had not been equivalent to diſprove five; but he produces none. Sir *William Penniman* repeats other words, and inverts them, and none but he. Another party, a Miniſter, reports a report that he heard concerning theſe words, but my Lord, he ſaith, the occaſion of the ſpeaking of them was not mentioned. Truly perhaps it might be the forgetfulneſs of my Lords memory; but let me put him in mind, and your Lordſhips remember that the occaſion was expreſt by one, and that is Sir *David Fowles*, *That he laying a Command upon Sir* David, *to repair a Bridge, and calling him to an account why it was not repaired, Sir* David Fowles *told him he could not do it by Law.* And therefore omitting it, my Lord ſaid to him, *Sir, Some are all for Law and Lawyers, but you ſhall know, that the King's little finger will be heavier than the loins of the Law.* Here is the occaſion, though he would have another buſineſs, the knighting Money to be the occaſion.

From the Second he falls to the Three and twentieth Article, that is, concerning words, that he ſhould counſel his Majeſty, that *he might uſe his Prerogative as he pleaſed*; but in ſaying there was no proof offered, he here begins to fall upon the other fallacy, that is, to pull things aſunder (whereas we produce them together) and would make that which is a *Fagot*, to be but a ſingle *Stick*; but under favour, when I come, with your Lordſhips patience, to open the force of the proofs, and put them together, he ſhall find (contrary to his expectation) that they are fully proved by the Teſtimony of many Witneſſes, upon conſideration of the precedent, concurrent, and ſubſequent Acts and Intentions of my Lord of *Strafford*.

I ſhall not now run over my Lord Primate's Teſtimony, or my Lord *Conways*, or Mr. Treaſurers, or my Lord of *Briſtols*, but make uſe of them in their proper places, when I ſhall put all together, to ſhew his deſign, and to prove his ſpeaking of the words.

Then he comes to the Five and twentieth Article, which I ſhall not inſiſt on, though he pretends it not proved; I ſhall refer that to my recollection, that I may not anſwer to his pieces, but bring all together, and then the horror of his Fact ſhall more ſpeciouſly appear. Only this (under favour) I cannot paſs over, when he comes to juſtifice an Advice and Counſel of the King's being looſe and abſolved from all Rules of Government, and he might uſe his Prerogative as he pleaſes, he is pleaſed to mention the Argument of the Judges in the Ship-money, and what they ſhould deliver, he makes the Warrant of his Counſel. Now your Lordſhips may obſerve,

obſerve, he would juſtifie his action by Law, in ſome caſes, where it is to his advantage, but in other caſes he muſt be ignorant of the Law.

But my Lords, for him to mention any thing to the Argument of the Judges, concerning the Ship-money, which is now condemned, and to make that a ground of his Counſel and advice to the King, and not the judgment in truth, but the Argument of the Counſel at Bar, that therefore he is looſe, and abſolved from all rules of Government; for him to make the Parliaments deferring to give ſupply, to be that neceſſity which was inſiſted upon the Counſels Argument, and to be ſuch an unavoidable neceſſity, as to beget an Invaſion upon propriety and Liberty, it reſts in your Judgements, and the Judgements of all that hear me, what argument this is, and what he declares his opinion to be this day.

In the latter part let me cloſe hands, and agree with him; he ſays, Proof muſt be taken by themſelves, they muſt not be Judged by pieces, but together; and now in good time I ſhall joyn with him, and ſhall deſire the ſame Judgement, that things may not be taken a ſunder, but judged together according to his own words.

For the twentieth *Article*, he is thereby charged with *being an Incendiary between both Nations, and an occaſion of drawing two Armies into this Kingdom, and to increaſe the War.*

My Lords, I remember (if I did not miſ-conceive, and my memory miſprompt me) my Lord ſaid, *He could have no occaſion to incence a War, being a man of an Eſtate, and ſhould have no benefit by it, having ſufficient to live without it*: but in due time I ſhall make it appear, to my apprehenſion, and I believe to your Lordſhips, when you have heard it, that the incenſing of this War, and provoking of it, was the principal inſtrument of bringing to paſs his deſign of ſubverting the Laws, through the whole work of it.

My Lords, in the paſſage of this, he takes occaſion to ſpake of the teſtimony of Mr. Secretary *Vane*, who teſtifies, *That my Lord was for an offencive, and himſelf for a defencive War*: Whence my Lord argues, here is no great difference, for both were for a War: But my Lord, Is there no difference between an offencive and defencive War, in Caſe of Subjects that live under one King? is there no difference, to bring an Army to offend them, and for the King to raiſe a force to defend himſelf? truly I think there is a great difference, and a very material one too: but your Lordſhips ſee he makes no difference between them.

My Lords, In the four and twentieth *Article*, he mentions, *That he is charged with being an occaſion to break the Parliament*, and lays hold on that, as in the other *Articles*, *That it was not proved, but declined.* My Lords, when he ſhall hear the reception of the Evidence, though part of the *Article* was not particularly inſiſted upon, yet I believe it will appear to your Lordſhips, and the World, that he was the occaſion of breaking the laſt Parliament, and is expreſly proved by Witneſſes enough; and though he ſays, *How ſhould any body think him an occaſion of it, that did ſo often adviſe Parliaments*, yet I ſhall ſhew anon, that when he did adviſe them, it was to compaſs his own Deſign and Plot, without which, his ends could not be brought to paſs.

He came to the Four and twentieth *Article*, to the Seven and twentieth, and he anſwers againſt that *Article*, *That when Armies are in the field, men cannot walk ſo peaceably, as an Attorny with his Box and Papers in* Weſtminſter Hall. I know not what he means; but when two Armies are in the field, they may raiſe War againſt the King's People, as well as

the King for his Juſt defence; it is the way to make his people terrified with Armies, and to avoid them as a Serpent, and therefore it is a dangerous aſperſion, as I conceive.

With theſe he concluded, except ſome things that he took, by way of artificial inſinuation, to Perſwade your Lordſhips, *That it was dangerous to raiſe a Treaſon that had lain a ſleep, I know not how many hundred years, and create a Treaſon.* A ſtrange thing indeed it is, *That a man ſhall be charged with a Treaſon for ſubverting the Law!* A ſtrange thing that one ſhould be charged with Treaſon for Killing a Juſtice ſitting in the Seat of Juſtice, and yet it ſhould be no Treaſon to deſtroy King, and Kingdom, and people, and all; which are deſtroyed, if the Law were ſubverted.

And now having touched upon what he hath ſpoken, with your Lordſhips good favour, I ſhall crave leave to run the courſe I have propounded with my ſelf: and that very briefly; that is, upon the whole matter, to ſhew how far the Evidence, produced on the Commons part, doth proye the Charge.

My Lords, *That laid to his charge, is a deſign and purpoſe to ſubvert the fundamental Law of two kingdoms, and to introduce an Arbitrary and Tyrannical Government*; not that he did affect it, but that he did intend it: for if he had done it, it had been too late to queſtion it, he had left no rule whereby to call him to Tryal; but his intention and his endeavour are his Charge.

My Lords, how far this is proved, if your Lordſhips be pleaſed to call to mind the *Articles* and the Evidences produced on the Commons part, your Lordſhips will find, I believe, that his Words, his Counſels, and his Actions, do ſufficiently prove his endeavouring to deſtroy.

In the firſt *Article*, where my Lord of *Strafford* hath the firſt opportunity offered him to put this endeavour in execution (that is the firſt place of eminency amongſt his other places and Commands, which I take it, was his being made Preſident of the North) he is no ſooner there, but there be inſtructions procured to enable him to proceed in that Court, almoſt in all Cauſes; for a man can Scarce think of a Cauſe, which is not comprehended within the Inſtructions obtained after his coming thither: but I ſhall put your Lordſhips in mind of two clauſes of the Inſtructions procured in the Eighth year of this King, and after he was Preſident; that is, the clauſe of *Habeas Corpus*, and *Prohibitions*; that no man ſhould obtain *Prohibiton*, to ſtay any Suit that ſhould be commenced before him, in the Council of *York*; That if any man ſhould be impriſoned by any Proceſs out of that Court, he muſt have no *Habeas Corpus*. A *Prohibition* is the only means to vindicate the Eſtate of a Subject, if he be queſtioned without Authority. *Habeas Corpus* is the only means to vindicate his Liberty, if he be detained without Law: But theſe doors muſt be ſhut againſt the Kings Subjects, that if either they be queſtioned, or reſtrained before him, there muſt be no relief. How far he could go further I am to ſeek, there being no means for the Subject to relieve himſelf, if he be queſtioned for his Eſtate without Authority; no meanes to redeem himſelf, if his Perſon impriſoned without Law. And he had ſo incircled himſelf about, that if the Judges ſhould find the party that returns not the *Habeas Corpus*, according to Law, there was a Power, and a Warrant, by the inſtructions, to the Barons, to diſcharge the Officers of that Fine. And now I refer it to your Lordſhips Judgment, Whether this be not to draw an Arbitrary Power to himſelf.

For

For the execution of this Power, it is true, it is proved to be before the inſtructions in the eighth year of the King; but then it riſes the more in judgment againſt him; for your Lordſhips have heard how he went into a grave Judges-Chamber, blaming him for giving way to a *prohibition*, granting Attachment againſt one that moved for a *prohibition*; and though this was done before the Inſtructions were granted, yet the Inſtructions coming at the heels of it, ſheweth his diſpoſition and reſolution more clearly, for he acts it firſt, and then procures this colour to protect it: and though he pretends there was no proof, yet I muſt put your Lordſhips in mind, that when theſe things were in queſtion, concerning the apprehenſion of an Knight, by a Sergeant at Arms, he kneels to His Majeſty, *That this defect might be ſupplyed, and this juriſdiction maintained elſe he might go to his own Cottage.*

And here being the juſt commencement of his greatneſs, you look to the Second, it follows, That at the publick Aſſizes he declares, *That ſome were all for Law, but they ſhould find the Kings little Finger heavior then the loins of the Law.* He did not ſay it was ſo, but he infuſed it as much as he could into the hearts of the King's people, *that they ſhould find it ſo*, and ſo he reflects upon the King, and upon his People; the words are proved: And to ſpeak them in ſuch a preſence, and at ſuch a time, before the Judges and Countery aſſembled, they were ſo dangerous, and ſo high expreſſions of an intention to Counſel the King, or Act it himſelf, to exerciſe an Arbitrary Government, above the weight of the Law, as poſſible could be expreſt by words. And this is proved by five Witneſſes, and not diſproved, nor is any colour of diſproof offered, but only by Sir *William Penniman*, who ſays, *he heard other words*, but not that *he heard not theſe words*, If he doth, he muſt give me leave not to believe him; for five affirmations will weigh down the proof of a thouſand negatives.

He ſtaes not long in *England* with this Power (though while he ſtays, you hear how he vexes the Subjects) but then he goes into *Ireland*, and as his Authority increaſes, ſo he amplicates his deſin; and no ſooner is he there, but the third Article is laid to his charge; That when the City and Recorder of *Dublin* the principal City of *Ireland*, preſented the Mayor, upon a ſolemn Speech and Diſcourſe concerning the Laws and Liberties (as your Lordſhips know that is the ſubject matter of a Speeh at ſuch preſentments, as when the Lord Mayor of *London* is preſented to the King) I beſeech your Lordſhips, obſerve the words he then uſed, *They were a conqured Nation*, and that we lay not to his Charge, *but they were to be governed as the King pleaſes, their Charters were nothing worth, and bind but during the King's pleaſure.*

I am to ſeek, if I were to expreſs and Arbitrary Power, and Tyrannical Government, how to expreſs it in finer words, and more ſignificant terms than theſe, *That the people ſhall be governed at the King's Will, that there Charters*, the ſinews and ligatures of their Liberties, Lands, and Eſtates, *ſhould be nothing worth, and bind no longer than the King's pleaſuer*, eſpeciall being ſpoken *upon ſuch an occaſion*, and the words proved by two or three Witneſſes of credit and quality.

From thence we deſcend to Articles, that ſhew the execution of his purpoſe. There are three things a man enjoys by the protection of the Law; that is, his Life, his Liberty, and his Eſtate, and now, my Lords, obſerve how he invades, and exerciſes a Tyrannical Juriſdiction, and Arbitrary Government over them all three. I ſhall begin with the fifth *Article*, that is concerning my Lord *Mauntnorris* and *Denwit*. My Lord *Mountnorris*, a

Peer of that Realm, was ſentenced to Death by procurement of my Lord of *Strafford*; who howſoever he pretends himſelf not to be a Judge in the cauſe, yet how far he was an Abettor, and Procurer, and Countenancer, and drawer on of that Sentence, your Loreſhips very well Remember; he was ſentenced to death without Law, for ſpeaking words at a private Table, God knows, of no manner of Conſequence in the World, *concerning the Treading upon my Lord of* Strafford's *Toe*; the Sentence procured ſeven months after the words ſpoken, and contrary to Law, and himſelf being put in mind of it, my Lord *Mountnoris* deſiring to have the benefit of the Law, and yet refuſing it.

And then it was in time of Peace, when all the Courts of Juſtice were open, and to Sentence a Man to Death of that quality, my Lord of *Strafford* himfelf being preſent, an author, a drawer on of it, makes it very hainous. Your Lordſhips remember this Article was fully proved, and though he pretends His Authority by a Letter from His Majeſty, I ſhall in due time give a full anſwer to that, ſo that it ſhall riſe up in judgment againſt him, to aggravate his offence, and that in a great meaſure.

Here he exerciſes a Power over Life, his excuſe was, *That he procured a pardon from my Lord* Mountnorris, but the Power was exerciſed, and the Tyranny appeared to be the more; *He would firſt ſentence him to death, and then rejoyce in his Power*, that he might ſay, *There remains no more but my Command to the Provoſt Marſhal to do execution.* To exerciſe a Power over his life, and to abuſe him afterwards, is very high; but no thanks to him that the Sentence of Death was not Executed, it was the Grace and Goodneſs of his Majeſty, that would not ſuffer my Lord *Mountnoris*, a Perſon of that Eminence, to be put to death againſt Law.

But the other was hanged, and as appears, againſt Law; and though my Lord pretends the party was burnt in the hand, yet that was not proved, nor material: and for him to do this in time of Peace, when the Courts of Juſtice were open, it argues a deſire in his Breaſt, to arrogate a Power above Law.

And In truth, I may not omit ſome obſervations that my Lord made this day; *He hopes His Majeſty would be pleaſed to grant him a Pardon.* I perceive he harboured in his thoughts, that he might hang the King's ſubjects when he woud, and then get a Pardon of courſe for it. The Lord bleſs me from his Juriſdiction.

My Lords, give me leave to go back again, here is Power over the Lives and Liberties of the Subjects; but he exerciſed likewiſe a Tyrannical Power over his Eſtate. Your Lordſhips may be pleaſed to remember the fourth Article, where he judges my Lord of *Cork*'s Eſtate, in neither Church-Land, nor Plantation-Land, and therefore had no pretence of a Juriſdiction; for it is a Lay Fee divolved by Act of Parliament to the Crown; yet he deprives him of his poſſeſſion, which he had continued for Twenty nine years, upon a Paper-Petition, without rules of Law. And whereas my Lord of *Cork* went about to redeem himſelf (the Law being every man's inheritance, and that which he ought to enjoy) he tells him, *He will lay him by the heels, if he withdraw not his Proceſs:* and ſo when he hath judged him againſt an expreſs Act of Parliament, and Inſtructions, and bound up a great Peer of the Realm, he will not ſuffer him to redeem that wrong, without a threat of *laying him by the heels and he will not have Law nor Lawyers queſtion his Orders and would have them all know, an Act of State ſhould be equal to an Act of Parliament:* which are words of that

nature,

nature, that higher cannot be ſpoken, to declare an intention to proceed in an Arbitrary way.

The next was in my Lord *Mountnorris* his Caſe, and *Ralſtone*. And here I muſt touch my Lord with miſrepetition. *Ralſtone* preferred a Petition to my Lord Deputy, my Lord Deputy himſelf judges his Eſtate, and deprived him of his poſſeſſion, though he cannot produce ſo much as one example, or precedent (though if he had, it would not have warranted an illegal action) but he cannot produce a precedent, that ever any Deputy did determine concerning a man's private Eſtate? and if he hath affirmed it, he proved it not: ſome Petitions have been preferred to him, but what they be *non conſtat*. But though never any knew the Deputy alone to determine matters of Land, yet he did it.

To the Seventh *Article* we produce no Evidence; but my Lord of *Strafford* cannot be content with that, but he muſt take upon him to make defence for that which is not inſiſted upon as a charge; but ſince he will do ſo, I refer it to the Book in print, where he determines the Inheritance of a Nobleman in that Kingdom, that is, my Lord *Dillon*, by a Caſe falſly drawn, and contrary to his conſent; and though he deprives him not of his Poſſeſſion; yet he cauſes the Land to be meſured out, and it is a danger that hangs over his head to this day. And had we not known that we had matter enough againſt my Lord of *Strafford*, this ſhould have riſen in judgment againſt him; but I had not mentioned it now, if he had not mentioned it himſelf.

The Eighth *Article* contains ſeveral charges, as that of my Lord Chancellor, *How he impriſoned him upon a Judgment before himſelf and the Council, how he enforced the Seal from him when he had no authority; nay, though it were excepted by his Patent, that he ſhould no way diſpoſe of it*; but he looked not to Authority, further then might make way to his Will.

Another concerns the prime Earl of that Kingdom, my Lord of *Keldare*, whom he impriſoned, and kept cloſe priſoner, contrary to the Kings expreſs commnand for his deliverance, and in his anſwer my Lord acknowledges it, but ſays, That *that command was obtained from the King upon a miſ-information*.

Theſe things I would not have mentioned, if he had paſſed them over; but ſince he gives them in, give me leave to mention and ſay, we had a ground to put them into Charge, and could have proved them, if there had been need, punctually and expreſly, and I believe, little to my Lords advantage.

But your Lordſhips, I think do remember my Lady *Hibbots Caſe*, where the Lady *Hibbots* contract with *Thomas Hibbots* for his Inheritance, for 2500 *l.* executes the Contract by a Deed, and Fine levied, depoſits part of the Money, and when a Petition was exhibited to the Lord Deputy and Council for the very Eſtate, your Lordſhips remember how this came in judgment before my Lord Deputy; there was but a Petition delivered, there was an anſwer made, and all the ſuggeſtions of the Petition denied; yet my Lord ſpake to *Hibbots* himſelf, that was willing to accept the Money, *not to decline the way that he was in by Petition, Five hundred pound more will do him no hurt to carry into* England *with him*: and yet, without examination of Witneſs, a Decree was made to deprive this Lady of her Eſtate: and the purchaſing of the Land by my Lord of *Strafford*, was proved by two Witneſſes, though not abſolutely, yet by confeſſion of Sir *Robert Meredith* and others, whoſe names were uſed in Truſt for my Lord of *Strafford*, and that it proved according to my Lord of *Strafford*'s Prophecy:

Prophecy; for the man had five hundred pounds gain above the Contract with my *Lady Hibbots*.

But after the *Lands* were ſold for Seven thouſand pounds: So that the *Lady Hibbots* offence was of making of a bargain, whereby to gain Five hundred pounds; but there was no offence in my *Lord*, to make a bargain for Three thouſand pounds, and to gain Four thouſand pounds preſently: this you ſee proved by *Hibbots* the party, and by Mr. *Hoy*, the Son of the Lady *Hibbots*.

So that here is a determination of a Cauſe before the Council-Table, touching *Land*, which was neither Plantation, nor Church-Land, without colour of the Inſtructions, contrary to the Law, to Statute, to Practice; and if this be not an exerciſing of an unlawful juriſdiction over the Land and Eſtates of the Subject, I know not what is.

In his anſwer to this Caſe he did open it (yet whether he miſtook or no I know not) That he had a Letter from the King but he produces none in evidence; and that is another miſ-recital. I am ſorry he ſhould miſrecite, and fix it upon the Perſon of His Sovereign in a caſe of this nature.

Now, he falls more immediately upon the liberty of the Subject, and that is by the Warrant mentioned in the Ninth *Article*, to be iſſued to the Biſhop of *Down* and *Conner*, whereby he gives power to him and his Officers, to apprehend any of the King's Subjects that appeared not upon Proceſs out of the Eccleſiaſtical Courts, expreſly contrary to Law; and your Lordſhips have heard how miſerable the King's Subjects were uſed by this Warrant, as hath been proved by a Gentleman of Quality, Sir *James Mountgomery*: And howſoever he pretends it was called in, it was three whole years in execution, before it was called in; and though he pretends his Predeceſſors did ordinarily grant Warrants of that nature, yet he proves no ſuch thing.

My Lord Primate was examined, and he ſays, that Biſhop *Mountgomery* did tell him there was ſuch a Warrant, and one Witneſs more ſpeaks of one Warrant, and that is all the Witneſſes produced, and that but to be a Copy too. Your Lordſhip have heard how he exerciſes his Juriſdiction and Power over particulars and that in a numerous manner; now your Lordſhips ſhall find it univerſal, and ſpread over the face of that Kingdom that was under his Juriſdiction, and that is in the tenth *Article*, which concerns the Cuſtoms: where he doth impoſe upon the King's Subjects a Rate and Tax againſt Law, and enforces them to pay it, or elſe puniſhes them for it, which is expreſly an arrogating to himſelf of a juriſdiction above the Law.

My Lords, in his anſwer he pretends, that *this is rather a matter of fraud than otherwiſe*: in truth and ſo it is, and that a great own too. But as it it is a fraud a diſ-ſervice, and deceit to His Majeſty, ſo it is likewiſe an exerciſe of a Tyrannical Juriſdiction over his Subjects. That it is a *fraud* to His Majeſty, it plainly appears, for the King loſt exceedingly by it; whereas before the Rent afforded the King was 1105*o l.* there was improved by the new Leaſe that my Lord of *Strafford* took, but 1350 *l.* and I beſeech your Lordſhids obſerve how much the King loſt by it; for my Lord had comprehended in his new Leaſe the Impoſt of Wine, for which the King before that time received 1400 *l.* a year; and Likewiſe the Cuſtom of *London-derry*, *Colerane*, and *Knock-fergus*, for which the King had reſerved 1700 *l.* a year, beſides the moiety of the ſeizures: ſo here is 5000 *l.* that the King loſt of the old Rent expreſly: and if your Lordſhips pleaſe, obſerve the gain and benefit my Lord of *Strafford* made by it; in one year he

he and his ſharers received 39000 *l.* and in the laſt year 51000 *l.* and that expreſly proved upon two accounts: and if this be his dealing, where is his ſervice to the King in his pretence to advance the Cuſtoms;

It is true, he ſays, *the King hath five eighth parts*, but it was but within theſe two years, the King had it not before. And I would very gladly have heard whether the King received his part of an account of 55000 *l.* if he had received it, I believe we ſhould have heard of it.'

My Lords, There is ſomething more; here is a new impoſition on the King's people without Law, and yet I will do my Lord of *Strafford* no injury: but I tell you how the proof ſtands; It was a Book of Rates framed before he came to the farm, for the Book of Rates was in *March*, and the Date of his Aſſignment was in *April* following; and therefore my Lord ſaith, *It could not be for his benefit.* But my Lords, all this while my Lord of *Strafford* was in *England*, and in agitaion for the procuring of it, and they came one upon the heels of another, and I beſeech you obſerve *cui bono*; the Book of Rates was procured within a month of the Patent, but God knows whether it were not within the compaſs of his intentions to take this Patent; and therefore whether he were not the Inſtrument of raiſing Rates, it reſts in your Lordſhips judgement, and all that here me; I am ſure the benefit redounded to himſelf: and ſo here is an Arbitrary Goverument in impoſing and forcing to pay, for that I deſire your Lordſhips to take with you; and he might as well have raiſed nineteen ſhillings on a pound, as nine pence or three pence, by the ſame rule of Law.

The next *Article* in number was the Eleventh, and I would be glad my Lord had not mentioned it; it concerns the Pipe-ſtaves, wherein he pretends he did the King great ſervice, *and that*, he ſays, *was the reaſon of our paſſing over it*: but that was not the reaſon; it had been a foul buſineſs if we had opened it; but having enough beſides, we made not uſe of it: for the ſubſtance of the proofs by multiplicity of Witneſſes had been, that the parties themſelves that bought the Pipe-ſtaves for four pounds odd money were fain to ſell them to the Inſtruments for ſix pounds, and after to buy them again for ten pounds, elſe there muſt be no Licence to export them: but that I would not have mentioned, if he had let it ſlip over.

I come to the Twelfth *Article*, and that is concerning Tobocco, wherein he pretends *the King's ſervice*, and if my memory fail me not, *the deſire of the Parliament, that he ſhould take this into his hands for the King.*

My Lords, Therein, under his favour, he hath miſ-recited the Evidence, and ſpoken that he cannot juſtify, for he can ſhew no ſuch deſire of the Parliament. It is true, there was a deſire of the Parliament, that the King would be pleaſed to take his Cuſtoms into his hands, for the advancement of his Revenue, that it might go to maintain himſelf, and he might not be abuſed, and others live by it; but to take the Tobacco into his hands, he never did nor can produce no Witneſs to prove ſuch their deſire; and therefore, under favour, he fixes a wrong upon the Parliament, and injuries your Lordſhips by his reciting that he neither did nor can make good; for there was no ſuch thing.

But if you obſerve the courſs he takes, he makes Proclamation to hinder the importing of *Tobacco* into *Ireland*; that if it be imported, it muſt be ſold to him at his own rate; and by this means he firſt hinders the liberty of the Subject from doing what the Law allows him, and ſo takes on him an Arbitrary Power; And Secondly, he ingroſſes this commodity to himſelf, deceiving His Majeſty, to whom he profeſſeth ſo much fidelity; for whereas there is 5000 *l.* Rent to the King, he, by the computation of

Merchants, receive near 14000 *l.* a year: And becauſe their cumputations are not always true, I do not care if I allow him 40000 *l.* miſtaken, and then he will gain near 100000 *l.* ſo that if he intends the King's benefit, it is a wonder he told not his Majeſty of the great profit that might thereby have riſen, and let him partake of it, as in juſtice he ſhould have done, according to the Truſt repoſed in him; but you have heard of no ſuch matter. And ſurely my Lord of *Strafford* would not have omitted it, if it had been for his advantage, eſpecially in this preſence, where he omits nothing to clear himſelf, or to inſinuate with His Majeſty.

Now I come to the Thirteenth *Article*, the *Article* concerning Flax, which I know is freſh in your Lordſhips memories, and I believe will be ſo in the memories of the Subjects of *Ireland* for many years, how he ingroſſed it into his hands, and interrupted the Trade of the poor people, whereby ſuch miſeries and calamities befell many of that Nation, that as you have heard it proved, thouſands die in ditches for want of Bread to put in there mouths. And whereas he pretends that this was proved but by one witneſs, and that man to be impriſoned, and of no credit, though he was his own inſtrument; your Lordſhips remember Sir *John Clotworthy* his teſtimony, and anothers, and his own Warrant produced, and acknowledged here to juſtify the execution of it, and ſuch a thing was thereby taken into their own hands, that I profeſs I never heard the like, that the poor people ſhould be conſtrained to uſe their own as he pleaſed, and that pleaſing of himſelf laid impoſſibilitity on the people to execute his pleaſure, which was a bondage exceeding that of the Iſraelites under the Egyptians; for there was not laid ſo much upon the Children of *Iſrael*, but there was a poſſibility to perform; they might with much labour perchance get ſtubble to burn their Brick, but the Natives here muſt have a charge laid upon them without poſſibility to perform, and the diſobedience muſt coſt him no leſs than the loſs of their Goods, which drew with it even the loſs of their *Lives* for want of Bread. This was not proved by only one Witneſs, but by many. And your Lordſhips remember the remonſtrance of that Parliament of *Ireland*, which declares it to a greater height than I have opened it.

The Fifteenth *Article*, is that of *Levying War upon the King's Subjects*, expreſly within the Statute of 25 *Edw.* 3. and 18 *H.* 6. Your Lordſhips have heard the Warrant proved by the party himſelf, to whom it was directed; whereby Power was given to lay Soldiers upon any party, that did not obey my Lord of *Strafford*'s Orders at the Council-Table, but not to circumſcribe him to a certain number; but the Sergeant Armes and his Miniſters, might lay as many as they would. It is true, this Warrant was not it ſelf produced, but a Copy was offered, which was not read; and therefote I will not offer it to be proved, but the party that executed the Warrant it ſelf, proves it to be under the Hand and Seal of my Lord of *Strafford*, he proves the expreſs authority of it, which was not the effect I opened; three or four more, who ſaw and read it, proved the ſame: and that it was under the Hand and Seal of my Lord of *Strafford*, that accordingly it was executed upon divers of the King's Subjects; it was proved by three Witneſſes expreſly in the point, how by colour of this Warrant the Sergeant at Armes, and his Officers, ſent Soldiers to lye in the Houſes and Lands of the King's Subjects; how the Owners were thereby forced out from their own Habitation; howtheir Goods were waſted and devoured, their Corn and Victuals eaten up, and the Soldiers never left them, as long as any part of their Eſtates remained to maintain them.

My

My Lord of *Strafford*'s defence is, *That it hath been uſed before his time in Ireland*; wherein he hath again miſ-recited: for he did not offer a proof, nor a particle of a proof, that ever any man did know Soldiers laid upon any party, for refuſing to apear to a Warrrant, for other contempt at Council-Table, before himſelf did it; but he offered to prove, *That formerly Soldiers were ſent againſt Rebels, and that after they were declared to be Rebels, and that juſtly too*; and he proved an uſe and cuſtom to force men to pay Contribution Money due to the King, but that was by conſent of the People, who, granted a Contibution of 20000 *l.* a year, for increaſe of the King's Revenue; and that it might not be upon Record in the *Exchequer*, and ſo calmed as due in time to come, they conſented, that Soldiers ſhould be laid upon them that refuſed it; and the word (*Conſent*) is within the Statute of 18 *H.* 6. Again, did he prove all manner of Rents were levied by Soldiers? no ſuch thing; but ſuch Rents as were deſigned for the payment of the Army: he proved by Sir *Arther Terringham*, that laying of Soldiers once for the paiment of a ſum of Money; but Sir *Arthur* being demanded whether it were the King's Rents, or comprehended within the ſame general Rule, he could make no Anſwer thereunto.

Your Lordſhips remember, he ſays *He did not know it, and therefore probably it was the King's Rents*; and doubtleſs it was ſo.

But if he had produced precedents, it could not be an authority for Treaſon, that if the People did not appear to his Orders, he muſt levy War againſt the King's Subjects, and for his extenuation of the War, that the ſame was of no great danger, there being not above five or ſix Soldiers laid at a time. I would to God, the People oppreſſed by it, had cauſe to undervalue it: I am ſure four or ſix Muſquetires are as ſtrong to oppreſs a man, as four thouſand; ſo the matter of Fact is ſtrongly and expreſly proved. Beſides, though there came not above four or five to a Houſe, yet the authority given to the Sergeant was general; he might have brought more if he had liſted: and in truth, he brought as many as the Eſtate of the party would maintain.

And as to the not producing of the Warrant, I have already anſwered it. If it were in the caſe of a Deed wherein men call for witneſſes, it were ſomething; but God forbid that the Treaſon ſhould be gone, and the Traitor not queſtionable, if his Warrant can be once put out of the way.

The next *Article* which is laid to his charge, is, *For iſſuing out a Proclamation, and Warrant of reſtraint, to inhabit the King's Subjects to come to the Fountain*, their Sovereign, to deliver their complaints of their wrongs, and oppreſſions. Your Lordſhips have heard how he hath exerciſed his juriſdiction, and now he raiſes a battery to ſecure and make ſafe. If he do wrong, perhaps the complaint may come to the Gracious Ears of a King, who is ready to give relief, and therefore he muſt ſtop theſe cries, and prevent theſe means, that he may go on without interruption; and to that end he makes Propoſition here, *That the Kings Subjects in Ireland, ſhould not come over to make complaint againſt Miniſters of State, before an addreſs firſt made to himſelf.* It is true, he makes a fair pretence and ſhew for it, and had juſt cauſe of approbation, if he intended what he pretended; But as ſoon as he came into *Ireland*, what uſe made he of it? he ingroſſes the proceedings of almoſt all the Courts of Juſtice into his own hands, and ſo pre-poſſoeſſes the King by a colourable propoſition, and prevants their coming over before they had made their addreſs to himſelf, and then he becomes the wrong doer, and iſſues Proclamations for the hindring of the

King's Subjects to ſeek redreſs without his leave; which is as great a proof of his deſign, and as great an injury to the People, governed under a Gracious Prince, as a heart can conceive. And what his intention was in exhibiting this Propoſition, it will appear in the ſentence of a poor man, one *David*, who was cenſured, and moſt heavily Fined for coming over into *England* to proſecute complaint againſt my *Lord of Strafford*. It is true, that this was not the cauſe expreſſed, but this was the truth of the matter. Your *Lord*ſhips remember a clauſe in the Order at Council-Board, whereby is ſet forth the cauſe wherefore the party is not ſentenced, which I never ſaw in an order before, nor ſhould now, but that my *Lord* foreſaw there was danger in it, that he might be charged in this place for the fact; and therefore puts in negatively, why the Party was not *cenſured*. *Clauſula inconſulta inducit ſuſpitionem*. And how defends he this *Article*? he ſays, *his predeceſſors iſſued Proclamations to hinder the King's Subjects from going over, leaſt they ſhould joyn with* O-Neal, *and* Tirconnel *beyond Sea, and ſo it might be dangerous to the State*; but becauſe they may joyn with Foreigners, ſhall they therefore not come to the King to make juſt complaint? What this argument is, I refer to your *Lord*ſhips judgments.

Then he pretends a former precedent, affirming that the like inſtructions were given to my Lord of *Faulkland*; but was there any, that none ſhould come to their Sovereign, to make their juſt appeal if injured? Surely there was never any ſuch Inſtructions before, and I hope never will be again.

The next *Article*, is the Ninteenth: and now when he had ſo plentifully exerciſed his Tyranny over the Lives, the Liberty, and the Eſtates of the King's Subjects; A man would think he could go no further: But ſee a Tyranny exerciſed beyond that, and that is over the Conſciences of men: hitherto he dealt with the *outward man*, and now he offers violence to the *inward man*, and impoſes an Oath upon the King's Subjects; and ſo exerciſeth a Tyranny over the Conſciences of men.

And ſetting aſide the matter of the Oath, if he had authority and power to impoſe ſuch au Oath as he ſhall frame, he may by the ſame power impoſe an Oath to compel Conſciences.

He pretends a Warrantt from his Majeſty to do it, but the Kings Miniſters are to ſerve the King according to Law; and I dare be bold to ſay (and we have good reaſon to thank God for it) if any of the King's Miniſters tell him, that any Command he gives is againſt *Law*, there is no doubt but in his Goodneſs and Piety, he will withdraw his Command, and not enforce execution; and therefore if there were an error, the King is free, and the Miniſters to be juſtly charged with it.

But there was no Command from the King to compel and enforce them to take the Oath by the power of the Star-Chamber, to commit them to priſon, to impoſe heavy Fines, and Tyrannize over them; all which did in the Caſe of *Steward*.

And now one would have thought he had acted his part, when he had acted as much as lay in his own power; and yet he goes beyond this, he was not content to corrupt all the ſtreams (which were not a diverting of the courſe, as he ſpoke in his anſwer; for he not only turned the courſe of the water, but changed the nature of it, converted it into poyſon, a legal and and juſt proceeding into a Tyrannical and Arbitrary Government, which it not turning, but corrupting of the clear and chryſtal ſtreams to bitterneſs and Death.) But yet the Fountain remains clear, and perhaps when his hand is taken off you ſhall have the ſtreams run as pure and uncorrupt as ever they did. This is it troubles him, remove but this obſtacle, and the work is Perfect;

fect; and therefore now he will go about to corrupt the ſtreams: if he can but infuſe his poyſon into the King's Heart which is the Fountain, then all is done; and now he attempts that, and approcheth the Throne, endeavours to corrupt the King's Goodneſs with wicked Counſels; but God be thanked he finds there too much Piety to prevail.

And therefore the next *Article* is that, that charges him *to be an Incendiary to the War betwixt the two Kingdoms*: and now I ſhall be bold to unfold the miſtery, and anſwer his objection: *That to what purpoſe ſhould he be an Incendiary? were it not better to enjoy his Eſtate in peace and quietneſs, than have it under danger of a War?* Now your Lordſhips ſhall have the Riddle diſcovered.

The Firſt thing he doth after his coming into *England* is, to incenſe the King to a War, to involve two Nations of one faith, and under one Sovereign, to imbrue their hands in each others Blood, and to draw Armies into the field.

That he was this Incendiary, give me leave to revive your Lordſhips memories with the proofs which will make it plain; and firſt give me leave to note unto your Lordſhips, that His Majeſty with much wiſdom, did in *July* 1639, make me pacification with His Subjects, and even at the very heels of this pacification, when all things were at peace, upon the tenth of *September*, which was the next month but one, your Lordſhips remember the Sentence of *Steward* in the *Star-Chamber* of *Ireland*, for not taking the Oath; your Lordſhips may call to mind the language my Lord of *Strafford* was pleaſed to uſe to the Scots: when all was in quietneſs, he then calls them *no better than Traitors or Rebels*, if you will believe what the Witneſſes teſtifies, whom my Lord is pleaſed to call a Schoolmaſter: And truly admit he were ſo, *becauſe he is a Schoolmaſter, therefore not to be believed*, is a *non ſequiter*. And another Witneſs, one *Loftus* ſpeaks to the words, though not in the ſame manner; but I ſay, the Tenth of *September*, when things were at peace and reſt, when the King was pleaſed to be reconciled to them by that pacification, what boiled in his breaſt then, to the breaking forth of ſuch expreſſions, I know not, unleſs it were an intention to be an Incendiary.

My Lords, I muſt ſay and affirm, and he hath not proved it to the contrary, that all this while (I am confident) there was not any breach of the pacification on either ſide, that it lies on his part to prove there was: But the Parliament of *Scotland* then ſitting, and making preparation for their demands in purſuance of the *Articles* of pacification, he coming over into *England* in *September*, immediately upon the pacification anſwers, *That he found things ſo diſtracted here, that it was fit the Scots ſhould be reduced by force, if they could not be otherwiſe*: yet no breach appears, no war was denounced, there was no intention of a War: But ſee what harboured in his breaſt all the while?

The fourth of *December* following, my Lord *Traquaire* made his relation to the Council of the Scots proceedings: and all this while there was no Demands brought by the Scots themſelves, nor reaſon of their Demands brought by others, though they were not prepared; yet you have heard his advice was *for an offenſive War, and that the Demands were a juſt cauſe of the War*. And though he pretends *he ſade no more than what the reſt of the Lords of the Council concurred with him in*, I will joyn in iſſue with him in that, and if ſome of your Lordſhips be not ſatisfied, you may have many noble Lords among you, from whom you may be ſatisfied that it is not ſo; I am ſure he proves it not. It is true, in the propoſition of the Demands, ſome

of the Lords of the Council did ſay, *That theſe Demands hypothetically, if the Scots did not give ſatisfaction by their reaſons were a juſt cauſe of War*; but not any Lord of the Council was of that opinion, that the very Demands, poſitively, without heaving of the reaſons, were a juſt cauſe of War, but himſelf; and I believe the Noble Lords of the Council, their Conſciences can tell them, and I believe will deliver it to the reſt of the Peers, that I ſpeak truth.

For *the offenſive War*, he pretends a concurrence of the reſt, but it was diſapproved; many were for it upon theſe terms, *if they did not give reaſons, and ſhew juſt cauſe for their Demands*; and many were againſt an *offenſive War upon any terms*, and therefore herein he fixes that upon the Lords of the Council, which he cannot make good.

All this while his intentions are diſcovered by a matter precedent, but after the breach he diſcovers his anger further towards the Scottiſh Nation, and makes it his deſign to incenſe the King to this War.

My Lords, he is not at end yet, for he confeſſes himſelf that *he adviſed the King to call a Parliament*; and now I come to his *work of merit*, but it was to his deſtruction, and ſerves to prove this *Article*, directly; for to what purpoſe was this Parliament called? *Exitus acta probat*; it was no ſooner ſet, but within three weeks *propoſition is made for ſupply towards a War againſt the Scots*: Who was the cauſe of calling the Parliament? himſelf; and therefore who was the cauſe of this propoſition but himſelf? and ſo calling of the Parliament is a concurring evidence of his being an Incendiary to put on the War; and it ſhall appear anon abſolutely, that he was the occaſion of it, and though he thinks there be no proof of it.

Did not he go over to *Ireland*, and by his ſollicitation there Subſidies were granted by the Parliament, only, *to maintain this War, and to ſhew their engagement in it?* And who was the occaſion of drawing them on, I referr it to your Lordſhips jndgments, by the circumſtances precedent.

Your Lordſhips heard his good opinion of the Scots, when he began to diſcourſe with the Citizens touching the Money, and their affording of the King ſupply, and ſeizing the Mint, *by giving them no better expoſitions than Rebels*; for, ſaith he, *you are more forward to help Rebels here, than to pay the King his own*: I know not who he meant, but certainly the Scots were in his thoughts; ſo that from the begining he incenſed the War againſt them: Firſt, he *exclamed againſt them during time of Peace.* He alledges in his Anſwer, *That things were found in ſuch diſtraction, that it was fit the Scots ſhould be reduced by force*: he gave his advice precipitately without hearing the reaſons, and not concurrant to the Council, *for an offenſive War*: and puting all together, I referr it your Lordſhips judgment who is the Incendiary; for how can it be proved more clearly, unleſs it ſhould appear under his Hand and Seal, proved by two or three Witneſſes?

Now my Lords, how comes this to be his deſign? here the Myſtery comes to be unfoulded. Having thus incenſed the War, and jngaged the King to the uttermoſt, and having a Parliament now diſſolved without ſupply, he ſets up an *Idol of his own creation*, as he means to draw on his deſign, and that was *neceſſity*; neceſſity, is it that muſt enforce the King: what to do? to levy Money, to uſe his Prerogative, to raiſe ſupplies upon His Subjects without their conſent, againſt their Will, neceſſity muſt be his Argument, and this War muſt be the occaſion of that neceſſity, and without that, he cannot ſuggeſt to the Kings ear, or adviſe this neceſſity, till this be brought to paſs.

And

And now he hath brought it to paſs, he began in the One and twentieth, and Two and twentieth, and Three and twentieth *Article*, to perſwade the King that *neceſſity hath ſurprized him, by the Parliaments deſerting of him; that the Parliament had forſaken the King in denying ſupply, and, having tryed the affections of His People, he was looſe and abſolved from all rules of Government; and had an Army in* Ireland *which he might employ, to reduce this Kingdom.*

That he ſpake theſe words to the King, part is proved by two concurrent witneſſes, that is, *that having tryed the affections of his people, he was now looſe and abſolved from all rules of Government*; which words are proved by two Witneſſes of eminet quality, that is, my Lord of *Northumberland*, and Sir *Henry Vane*: and, truly, howſoever my Lord in his ſpeech pretends, *that the moſt material words are proved but by one witneſs* (it ſeeming that he held it not a material charge, that he counſelled the King that he was abſolved from all Rules of Government) for my part, if your Lordſhips be ſatisfied thoſe words were proved, I could willingly ſatisfy my own Conſcience in it, and make no great matter to quit the reſt; for I know not how he could expreſs it in higher terms, than that *the King was abſolved from all rules of Government*, for then he might do what he would.

It is true, the latter words, *touching the Iriſh Army*, are expreſly proved but by one witneſs, Mr. Secretary *Vane*; but are fortified again with ſuch circumſtances as make up more than one, yea more than two other witneſſes, if your Lordſhips will have the patience to have it repreſented as it is proved.

For howſoever it be ſlighted by him, if your Lordſhips will call to mind the words of Sir *George Ratcliffe*, *his boſom friend* (to whom he had contributed without queſtion, his advice in all caſes) the ſaid Sir *George Ratcliffe* expreſſed it before, and told ſome of his friends (ſuppoſing that he ſhould never be called in queſtion, and that the power of my Lord of *Strafford* had been enough to protect any thing he had done, and out of the abundance of the heart his mouth ſpake) *The King muſt now want no money; if he did, no body would pitty him, now he had his ſword in his hand.*

Sir *Robert King* proves it ſo. My Lord *Ranalagh* diſcovered the ſmoak of the fire that he had juſt cauſe to ſuſpects, and on good grounds, I am ſure; and if the Commons of *England* had not juſt cauſe to ſuſpect him (as I believe he is convinced they had good cauſe) what is the reaſon this ſuſpition ſhould be entertained at that time, my Lord of *Strafford* being not then queſtioned for it? and yet my Lord *Ranalagh* ſhould ſay, *Shall we turn our Swords upon our own bowels? Shall we bring this Army to turn the point of our blades upon that Nation from whence we are all derived?* and that was before any conference with Mr. Secretary *Vane*.

Sir *William Penniman* himſelf, his own witneſs and friend, ſays, at *York*, before my Lord of *Strafford* was queſtioned, *that there was a common fame of bringing the Army into England*, an there is ſomething in that ſurely; and after all this, to produce one witneſs that exprely proves the very words ſpoken *in terminis*, as they be charged, if your Lordſhips put the whole together, ſee whether there be not more than one witneſs.

And, under favour, my Lord *Cottington*, if you call to mind his teſtimony, I muſt inſtifie, he did declare, That he heard my Lord of *Strafford* tell the King *That ſome repration was to be made to the Subjects property*; which muſt inferr, *he had adviſed an Invaſion upon the property*; elſe by no good

coherence

coherence ſhould a reparation be made. And that he teſtifies this, I muſt affirm, and moſt here will affirm it; and I think your Lordſhips well remember it: and that is an addition to it; for if your Lordſhips caſt your eye upon the Interrogatory adminiſtred to my Lord Admiral, and my Lord *Cottington*, that very queſtion is asked; ſo that his own Conſcience told him, he had adviſed ſomething to invade upon the people, when he adviſed to a *reſtitution after things ſhould be ſettled*: and ſo I refer it to your Lordſhips conſideration, whether here be not more than one Witneſs by far.

It is true, he makes objections to leſſen this teſtimony; First, That *this Army was to be landed at* Ayre *in* Scotland, *and not here*; and this was declared to Sir *Thomas Lucas*, Mr. *Slingsby*, Sir *William Penniman*, and others. Secondly, *That others that were preſent when the words are ſuppoſed to be ſpoken, did not hear any ſuch words.*

For the Firſt; perhaps the Army might be originally intended for *Scotland*, and yet this is no contradiction, but he might intend it afterwards for *England*; ſurely this is no *Logick*, that *becauſe it was intended for one place it could never be intended for another place*; So his allegation may be true, and the charge ſtand true likewiſe.

Beſides, that it was intended originally for *Scotland*, what proofs makes he? *He told ſeveral perſons of the deſign*, but I will be tryed by himſelf, he told ſome, *it was for* Scotland, he told others *it was for* England; and why you ſhould believe his telling on one ſide, more than on the other ſide I know not; though he pretends a reaſon of his ſeveral allegations, that *the world ſhould not know his deſign*, but if you will not believe him one way, why ſhould he be believed the other way? and if not the other way, why the firſt way?

For the Second, *Several perſons were preſent, when the words were ſpoken touching the Iriſh Army, and they were examined, and remember not the words*; one man may hear, though twenty do not hear; and this is no contradiction at all; for thoſe perſons whom he examined, the Lord Treaſurer Marqueſs *Hamilton*, my Lord *Cottington* did not hear the words, that are proved by two witneſſes, *concerning the King's being looſe and abſolved from rules of Government*, and if they did not hear thoſe words no marvel they did not hear the other: and therefore that which he himſelf pretends to be a convincing teſtimony, is nothing at all; ſo that his objections are clearly taken away, and the ſingle teſtimony fortified with teſtimonies that make above one witneſs, and ſo the words are fully proved.

But to fortify the whole, I ſhall handle all theſe Articles together; This deſign to ſubvert the Law, and to exerciſe an Arbitrary power above the Law in this Kingdom, will (upon the proofs putting them altogether, and not taking them to peices, as my Lord of *Strafford* hath done) appear to have been harboured in his thought, and ſetled in his heart long before it was executed.

You ſee what his Counſels were, *That the King having tryed the affections of his people, was looſe and abſolved from all rules of Government, and might do every thing that power would admit*; *and His Majeſty had tryed all ways, and was refuſed, and ſhould be acquited of God and Man, and had an Army in* Ireland, *wherewith, if he pleaſed, he might reduce this Kingdom*: ſo there muſt be a trial of his people, for Supply that is denyed, which muſt be intrepreted, a *Defection by refuſal*, and this refuſal muſt give advantage of neceſſity, and this neceſſity muſt be an advantage to uſe his

Prerogative

Prerogative againſt the rule of the Law, and conſent of the People; this is his advice, which ſhews that this very thing that happened, did harbour in his thoughts long before the breach of the Parliament, and the occaſion of the Army.

Your Lordſhips have heard it confeſſed by himſelf, *That before this laſt advice, he had adviſed the calling of a Parliament*: To the Parliament a propoſition of Twelve Subſidies was made for ſupply, and (which may be ſpoken with great aſſurance) before they had conſulted, or given any reſolution to that propoſition, the Parliament was diſſolved, upon a ſuppoſal that the ſupply was denied. Now that this was pre-deſigned by my Lord of *Strafford* himſelf, I beſeech you obſerve theſe things following, that is, *The words in the Two and twentieth* Artiele, *That His Majeſty was firſt to try the Parliament, and if that did not ſupply him, then he would ſerve the King any other way.*

His words are proved by Mr. Treaſurer, *That if the Parliament ſupplyed him not, he would ſerve him any other way*; and this is before the Parliament ſet: Now if your Lordſhips hear the proofs of my Lord Primate, (which my Lord of *Strafford* ſlights taking it ſingly) my Lord Primate before the Parliament was called, when my Lord of *Strafford* was in *Ireland*, and not yet come into this Kingdom, teſtifies, my Lords, ſaying, *That if the Parliament will not ſupply His Majeſty, the King was acquitted before God and Man, if he took ſome other courſe to ſupply himſelf, though againſt the will of the Subjects.* I beſeech your Lordſhips, obſerve how he propheſies theſe things muſt come to paſs, and adviſed them accordingly.

My Lord *Conway* teſtifies, that before the Parliament ſate, my Lord of *Strafford* ſaid, that *if the Parliament would not ſupply His Majeſty, the King was acquitted before God and Man, if he took another courſe to ſupply himſelf, though it were againſt the will of the Subject, and he doubts not but the Parliament would give*, What? *Twelve Subſidies:* and your Lordſhips very well remember, Twelve were propounded; but I beſeech you, obſerve the coherence of all; the Parliament muſt be called, they muſt be tried, if they deny there is neceſſity, and this neceſſity is a Warrant for the King to proceed; ſo that my Lord of *Strafford* muſt be judged to be either a Prophet, or to have this deſign beforehand in histh oughts.

Now the Parliament being broken before anſwer to the Demand given, he vents his Counſel in the Three and twintieth *Article*, and how far it is proved, your Lordſhips have heard. Now comes the *Bullion to be ſeized, the Copper-Money to be adviſed*, and now comes he to tell the King, *that the Aldermen of* London *muſt be put to Fine and Ranſom, and laid by the heels, and no good would be done till ſome of them be hanged*, ſo you hear his advice; I beſeech your Lordſhips obſerve what ſucceſs this advice took; *Four Aldermen were inſtantly committed*, and then the Counſel of the Three and twentieth *Article* is fomened.

Firſt, he foments the War, thenthere is a neceſſity, the defection of the Parliament muſt ſet the King *looſe from rules of Government*, and now ſee whether the occaſion of the War, the calling of the Parliament, the diſſolving of it, be not adequate to what he propounded to himſelf, namely, to ſet up an *Arbitrary Government.*

Your Lordſhips remember how freſh my Lord of *Briſtol*'s memory is, touching my Lord of *Strafford*'s opinion upon the diſſolution of the Parliament; how he declared unto my Lord of *Briſtol* inſtantly within three or four days after, *That the King was not to be maſtered by the frowardneſs of his people, or rather of ſome particular perſons*; and your Lordſhips remember,

remember Sir *George Wentworth*'s words ſpoken the very day of diſſolving the Parliament; which may be very well applied as a concurrent proof to his intentions of bringing the Army into *England*. He was my Lords, own Brother, that knew much of his Counſel, and his words are, *That the Engliſh Nation would never be well till they were Conquered over again*. So my Lords, put all together, if he declared his own intentions, if actions, in executing this Tyrannical and Arbitrary Power, if Counſels of as dangerous conſequence, in as high a ſtrain as can be, be not a ſufficient Evidence to prove ſuch an interpretation: and now I refer it to your Lordſhips judgments, whether here be not a good proof of the *Article* laid to his charge.

My Lords, in the Seven and twentieth *Article*, he is *charged with levying of War upon the King's people, by forcing them in* Yorkſhire *to pay Money*; to prove they were ſo forced, you have heard by two witneſſes, that Sergeant Major *Yaworth*, by Muſquetiers, four together in the Town, and one by one out of the Town, did comple them to pay the fortnights contribution, elſe they were to ſerve in perſon: That he did this by Warrant is likewiſe confeſſed by Sir *William Penniman*: and whether this were an authority derived from, or commanded by my Lord of *Strafford*, that is the queſtion; and my Lords, it is plainly proved, that it was commanded by my Lord of *Strafford*, for Sir *William Penniman* himſelf being examined, alledged that the Warrant was made in purſuance of the relation, and direction made by my Lord of *Strafford*.

Your Lordſhips heard what my Lord of *Strafford* did ſay before-hand, as is proved by two Witneſſes, (Sir *William Ingram* and Mr. *Cholmley*) that this Money ſhould be paid, or levyed on the Subjects Goods; Then his Declaration to Sir *William Penniman*, (in purſuance of which he made his Warrant) That was the aſſent of the Lords of the great Council, that this Money ſhould be levied; and taking all together, whether it fixes it not upon him to be the Author and Inſtrument, it reſts in your judgements in point of fact: and ſo I ſuppoſe the Seven and twentieth *Article* reſts on him, and ſo I ſhall conclude the Evidence produced on the behalf of the Commons.

And now give me leave to put your Lordſhips in mind of ſome Evidences offered by my Lord of *Starfford* himſelf in his anſwer, and in the paſſages of his Defence for his clearing and juſtification, but tending directly to his Condemnation.

I will enter upon ſome paſſages he mentioned to day, and often before; When he is charged with invading the *Eſtates of the Peers of the Kingdom of* Ireland *and determining them upon Paper Petitions in an Arbitrary way*: your Lordſhips have heard him ſpeak it before, and repeat it this day, *That he did it out of Compaſſion, for the more expeditious proceeding on behalf of the poor againſt theſe mighty:* But then my Lords, I beſeech you compare ſome other part of his proceedings. Your Lordſhips remember the buſineſs of the Flax, which concerns the poor wholly and univerſally; and if compaſſion had not been the rule and direction of his Actions towards the poor, ſurely this would have been a juſt cauſe to have commiſerated them in this caſe; but he exerciſed his power over them, and over them wholly, and over them univerſally: and therefore it ſhews, it is not in his compaſſion to the poor, nor reſpect to the rich, or mighty, that will any way reſtrain or obſtruct

his

his ways, to his own Will. And therefore you may ſee what truth there is in his Anſwer, by comparing one part of the Charge with another, when the buſineſs of the *Flax* brought that Calamity upon the King's Subjects, that Thouſands of them periſhed for lack of Bread, and died in Ditches.

Secondly, Your Lordſhips have often heard him uſe a Rhetorical Inſinuation, wondring that he ſhould be charged with words, and they ſtrained ſo high as to be made Treaſon, to queſtion his Life and Poſterity, though the words might be ſpoken unadviſedly, or in diſcourſe, or by chance: Your Lordſhips remember the Fifth Article, touching his proceedings againſt my Lord *Mountnorris*, where words were ſpoken in an ordinary Diſcourſe at Dinner, and ſlight ones, God knows, of no conſequence at all, ſuch as another man would ſcarce have hearkned after, and yet my Lord extends them to the taking away of my Lord *Mountnorris* his life; gets a Sentence of Death againſt him, and that againſt Law, with a high hand, in ſuch a manner, as I think your Lordſhips have not heard the like; and therefore I beſeech you, compare one part of his Anſwer with another, and ſee how ready he is to make uſe of any thing that may excuſe himſelf; and yet when he comes to act his Power, you ſee his exerciſe of it.

You have heard how he magnifies his Zeal for advancing the King's Benefit and Revenue, and his care of his Service, and would ſhelter and protect himſelf under it, to juſtifie an exorbitant Action: but if your Lordſhips call to mind the buſineſs of *the Cuſtoms for Tobacco*, (which in truth were the King's right and due, and a great Profit was thereby advanced; and he truſted to advance it.) The King muſt looſe of his former Rents in the caſe of Cuſtom, and received a ſmall Rent in the caſe of *Tobacco*, my Lord himſelf in the mean time imburſing ſuch vaſt ſums of Money: where is then the diſcharge of his Truſt? where is his Care to advance the King's Rents? to increaſe his Revenue? Compare that part of his Anſwer with this, and ſee what Credit is to be given to his Affirmation.

My Lords, Throughout the paſſages of his Diſcourſe he inſinuates, (and never more than this day) with the Peers of the Realm, magnifying them almoſt to Idolatry; and yet, my Lords, when he was in his Kingdom in *Ireland*, and had power over them, what reſpect ſhewed he then to the Peers of the Kingdom, when he judged ſome to Death, trampled upon others in Miſery, committed them to Priſon, and ſeized on their Eſtates; where then was the Peerage he now magnifies?

And to ſhew it was an Inſinuation for his own Advantage, you may remember, when there was an unlawful Act to be committed, that is, the levying of Money in the North, What regard had he then to the Peers of the Kiogdom, when he comes to juſtifie and boulſter up High Treaſon it ſelf, under the Name and Authority of the Great Council, where moſt of the Peers of the Realm then were? and ſo by this time I know what credit your Lordſhips give to his words ſpoken, when he lyes under your Mercy and Power: but what do I ſpeak of the Peers of the Kingdom, and his uſing of them? My Lords, he ſpared not his Sovereign, His Majeſty in His whole Defence; for being charged with Offences of a high Nature, he juſtifies thoſe Offences under the Pretence, and under the Authority of His Majeſty, our Gracious King and Sovereign, even Murther it ſelf, in the Caſe of *Denwit*, and my Lord

Mountnorris. Treaſon it ſelf in the Fifteenth Article by a Command in *Ireland*, and in the Seven and twentieth, by a pretended Authority from His Majeſty in the face of His People; he juſtifies my Lord of *Mountnoris* his Sentence by a Letter from His Majeſty, *Denwit*'s Sentence by a Commiſſion from His Majeſty, and he read three or four Clauſes to that purpoſe.

My Lords, my Lord of *Strafford* doth very well know (and if he doth not know it, I have a Witneſs to produce againſt him, which I will not examine, but refer it to his own Conſcience, that is, *The Petition of Right*) that *the King's Servants are to ſerve him according to Law, and no otherwiſe*: he very well knew if an unlawful act be committed, eſpecially to a degree of Treaſon and Murder, the King's Authority and Warrant produced, is no juſtification at all. So then, my Lords, to mention the King's name, to juſtifie an unlawful act in that way, can do him no good; and his own underſtanding knows, it may do the King harm, if we had not ſo gracious a King, that no ſuch thing can do harm unto.

But, my Lords, to produce the King's Warrant to juſtifie his actions under his Patent and Command, what is it elſe, but ſo far as in him lies, in the face of his People, to raiſe a Cloud, and exhale a Vapour? To interpoſe betwixt the King and his Subjects, whereby the Splendor of his Glory and Juſtice cannot be diſcovered to his People?

My Lords, What is it elſe, when the People make complaint againſt the Miniſters (that ſhould execute Juſtice) of their Oppreſſion and Slavery, and Bondage? For the Miniſter, when he is queſtioned to juſtifie this under the King's Authority, what is it, I ſay, but as much as in that Miniſter lies, to fix this Offence, to faſten this Oppreſſion upon the King himſelf, to make it to be believed, that the occaſion of theſe their Groans proceeded from His Sacred Majeſty? yet God be thanked the ſtrength of that Sun is powerful enough to diſpel theſe vapours, and to diſperſe the Cloud that he would have raiſed; but in the mean time, my Lord is nothing to be excuſed.

My Lords, he may pretend zeal to the King's Service, and affection to His Honour, but give me leave not to believe it, ſince, when he is queſtioned by all the King's People, and in the face of his People, and offences laid to his charge, which himſelf now confeſſes to be againſt Law; he ſhould juſtifie it under the King's Authority; that ſavours not of a good Servant: I will ſay no more.

My Lords, He is charged with exerciſing a Tyrannical Power over the King's People, and in his Defence your Lordſhips have often heard (and I may not omit it) that he ſhelters himſelf under the protection of the King's Prerogative, though he be charged with Tyranny of the higheſt Nature that may be: ſee then how foul and malignant an aſpect this hath. My Lords, what is it elſe, but to endeavour, as much as in him lies, to infuſe into the King's heart an apprehenſion, that His Prerogative is ſo bottomleſs a Gulf, ſo unlimited a Power, as is not to be comprehended within the Rules of Law, or within the bounds of Government? for elſe why ſhould he mention the Prerogative, when he is charged to exceed the Law? What is it elſe, but as far as in him lies, to make the People believe (for I may not forget the words he hath uſed) *by his magnifying of the Prerogative, that it hath a ſpecial ſtamp of Divinity on it*; and that the other part of the Government that God

pleaſes

pleaſes to put into the King's hands, had not that ſtamp upon it? as if any thing done by one, was to be juſtified by Authority derived from Heaven, but the other not.

Theſe Expreſſions your Lordſhips remember; and I may not omit to put your Lordſhips in mind of them; and I can expound them no otherwiſe than, as much as in him lies, to make the Subject believe and apprehend, that which is the Buckler and Defence of his Protection, to be the two-edged Sword of his Deſtruction, according to the Doctrine he preached; and that that which is the ſanctuary of their liberty, is a ſnare and engine of their ſlavery. And thus he hath caſt a bone of Contention, as much as in him lay, betwixt King and People, to make the Subjects loath that glorious Flower of his Crown, by fixing a jealouſie in them, that it may be a means of their bondage and ſlavery.

But there is ſo much Piety and Goodneſs in the King's heart, that I hope upon fair underſtanding, there will be no ſuch occaſion; but no thanks to the Party, that ſo much advanced the Prerogative in the Caſe and Condition he ſtands in, to juſtifie that which is laid to his Charge of High Treaſon.

My Lords, I beſeech you give me leave; there is no greater ſafety to Kings and People, then to have the Throne incircled with good Counſellors; and no greater danger to both, than to have it encompaſſed with wicked and dangerous ones; and yet I beſeech you call to mind, how he hath attempted to deprive the Subject of all means to diſcover this danger, by inſinuating to your Lordſhips, *what a dangerous thing it were, if Counſellors ſhould be called in queſtion for giving of Counſel: for who then* (ſaith he) *would be a Counſellor? where is your ſafeguard? where is the King's Service?* Is not this, as much as in him lies, to deprive the People of the means whereby they muſt make themſelves happy, and whereby the King muſt be happy, that is, by his having good Counſellors about him? and yet he infuſes that venom, that *the queſtioning of Counſellors is dangerous both to King and Peers, if it ſhould be brought into example.* My Lords, for many years by-paſt, your Lorſhips know an evil Spirit hath moved amongſt us, which in truth hath been made the Author and Ground of all our Diſtractions, and that is Neceſſity and Danger: this was the Bulwark, and the Battery that ſerves to defend all exorbitant Actions; the Ground and Foundation of that great Invaſion of our Liberties and Eſtates, the Judgment in the Ship-money, and the Ground of the Counſel given of late to do any thing, and to perſwade the King, *that he was abſolved from all Rules of Government*; and yet your Lordſhips have obſerved in the courſe of his defence, how often he hath *raiſed this ſpirit, that God be thanked hath been laid*, to the great comfort of King and Kingdom, by your Lordſhips, and all the Commons in Parliament. And when he ſtands under this queſtion, and goes about to juſtifie his exorbitant Actions, how often hath he created this Idol again? and therefore I am afraid he diſcoyers too much his own heart in it.

My Lords, I may not omit ſome other Paſſages in his Defence, *How he hath caſt Scandals upon three Nations in this place*; that is, in his firſt day of Defence, when the Iriſh Remonſtrance, made by all the Commons of *Ireland*, was produced by the Commons of *England*; he expreſſed in a paſſion, *that things were carried againſt him by faction and correſpondence, and (if he had time he would make it appear) with a*

ſtrong conſpiracy. Here is a Scandal caſt upon the Parliament of *Ireland*, with a Reflection on the Commons of *England*; howſoever, it is true, your Lordſhips may remember the Recantation he made that day, which I will not omit, deſiring not to lay any thing to his charge but what is true; but it is the Reflection of a Scandal that I cannot omit to put your Lordſhips in mind of; and the rather, becauſe this Remonſtrance, preſented from the Parliament of *Ireland*, did bear date before my Lord of *Strafford* was charged here, which is very remarkable, *viz.* the Seventh of *November*; and therefore, though he pretends a Correſpondence, certainly there could be none then, for he is not charged here till the Tenth.

And the ſame day, juſtifying a Sentence in the Caſtle-Chamber, your Lordſhips remember he affirmed, That *unleſs a ſtrict hand were kept upon the Nation there, they would find it hard to prevent perjury, one of the moſt crying ſins in* Ireland. Now to lay an aſperſion upon the Subjects of *Ireland*, being under the Government of the ſame King with us, how fit this is to be done by a Man in that condition that my Lord of *Strafford* is, I refer to your conſideration.

Another Paſſage I remember, whereby in his Defence he fell upon that Nation; in anſwer of which, I may not omit to do the Service I owe to the Commons, for whom I am truſted, and that is, that talking of an Arbitrary and Tyrannical Government, in reference to ſome Orders of the Commons Houſe in *Ireland*, he uſed words to this purpoſe; *Ye talk of an Arbitrary Government, look upon theſe Orders, here is an Arbitrary Government:* and yet when he produced the Orders, they appeared to have ſo much Juſtice and Diſcretion in them, that he can lay nothing to the charge of them, though in a Paſſion he is not backward to aſperſe them.

My Lords, If this Lyon (to uſe his own language) now that he is chained and muzled, under the reſtraint and queſtion of High Treaſon, will here take the boldneſs to vent this language, and expreſs this malignity; How would he do if he were unchained? How would he devour? How would he deſtroy? *&c.*

My Lords, Something concerns your Lordſhips; your Lordſhips remember, that he was not backward in his own Anſwer, to *fix a Charge of High Treaſon upon the Lords of the Great Council*; and howſoever he hath affirmed this day, I muſt open it again, That the Charge of the Seven and twentieth Article he fixes in his Anſwer, to be *the conſent of the Lords of the Great Council*, though he hath ſince recanted it; and yet you have heard him alledge, that he will ſtand and fall by the truth of his Anſwer.

My Lords, I am now at an end. You have my Lord of *Strafford* here queſtioned for High Treaſon, for going about to ſubvert the Fundamental Laws of both Kingdoms, in defence whereof, your noble Anceſtors ſpent their Lives and Bloods. My Lords, you are the Sons of thoſe Fathers, and the ſame Blood runs in your Veins, that did in theirs, and I am confident you will not think him fit to live, that goes about to deſtroy that which protects your Lives, and preſerves your Eſtates and Liberties.

My Lords, You have the Complaints of Three Kingdoms preſented before you againſt this great Perſon; whereby your Lordſhips perceive that

that a great Storm of Diſtemper and Diſtraction hath been raiſed, that threatens the Ruin and Diſtraction of them all.

The Commons with much pain and diligence, and to their great expence, have diſcovered the *Jonas*, that is the occaſion of this Tempeſt.

They have ſtill, and will diſcharge their Conſciences, (as much as in them lyes) to caſt him out of the Ship, and allay this Tempeſt.

They expect, and are confident your Lordſhips will perfect the Work, and that with expedition, leſt with the continuance of the Storm, both Ship, and Tackling, and Mariners, both Church, and Commonwealth be ruined and deſtroyed.

Saturday,

Saturday, May 1. 1640.

The King came to the Houſe of Lords, and ſent for the Commons thither, and made this Speech to both Houſes.

I Had not any intention to ſpeak of this buſineſs, which cauſes me to come here to day, which is the great Impeachment of the Earl of *Strafford*; But now it comes to paſs, that of neceſſity I muſt have part in that Judgment: I am ſure you all know that I have been preſent at the hearing of this great Buſineſs, from the one end to the other; that which I have to declare unto you is ſhortly this:

THAT *in my Conſcience I cannot condemn him of High Treaſon, It is not fit for me to argue the buſineſs, I am ſure you will not expect it. A Poſitive Doctrine beſt comes out of the mouth of a Prince; Yet I muſt tell you Three great Truths, which I am ſure no body can know ſo well as my ſelf.* 1. *That I never had any intention of bringing over the Iriſh Army into* England, *nor ever was adviſed by any body ſo to do.* 2. *There never was any Debate before me, neither in publick Council, nor at private Committee, of the Diſloyalty, and Diſaffection of my Engliſh Subjects, nor never had any ſuſpicion of them.* 3. *I was never counſell'd by any, to alter the leaſt of any of the Laws of* England, *much leſs to alter all the Laws; Nay, I muſt tell you this, I think no body durſt be ever ſo impudent to move me in it, for if they had, I ſhould have put a Mark upon them, and made them ſuch an example, that all Poſterity ſhould know my intention by it; for my intention was ever to Govern according to the Law, and no otherwiſe.*

I deſire to be rightly underſtood, I told you in my Conſcience I cannot Condemn him of High Treaſon; yet I cannot ſay I can clear him of Miſdemeanor: Therefore I hope that you may find a way, for to ſatisfie Juſtice and your own Fears, and not to preſs upon my Conſcience. My Lords, I hope you know what a tender thing Conſcience is. Yet I muſt declare unto you, that to ſatisfie my People I would do great matters. But in this of Conſcience, no fear, no reſpect whatſoever, ſhall ever make me go againſt it. Certainly, I have not ſo ill deſerved of the Parliament at this time, that they ſhould preſs me in this tender point, and therefore I cannot expect, that you will go about it.

Nay, I muſt confeſs for the matter of Miſdemeanor, I am ſo clear in that, that though I will not chaulk out the way, yet let me tell you, that I do think my Lord of Strafford, *is not fit hereafter to ſerve me or the Commonwealth in any place of Truſt, no not ſo much as to be a High-Conſtable: Therefore I leave it to you my Lords, to find ſome ſuch way as to bring me out of this great ſtreight, and keep your Selves and the Kingdom from ſuch Inconveniences. Certainly he that thinks him guilty of High Treaſon in his Conſcience, may Condemn him of Miſdemeanor.*

The

The Houſe of Commons as ſoon as they returned, ſeemed to be much diſcontented with what the King had ſpoken, and immediately Adjourned till *Monday* following, on which day being the Third of *May*, Mr. *Pym* makes known to the Houſe, that there are divers Informations given of deſperate Deſigns, both at home and abroad, againſt the Parliament and the Peace of the Nation, and that the Perſons engaged in it, are under an Oath of Secreſie, that there is an endeavour to diſaffect the Army, not only againſt the proceedings of the Parliament, but to bring them up againſt the Parliament: That there is a deſign upon the *Tower*, that there is an endeavour for the Earl of *Strafford* to eſcape; That thoſe Combinations at home, have a Correſpondency with Practiſes abroad; and that the French are drawing down their Forces in all haſte to the Sea-ſide, and that there is a cauſe to fear their intent is upon *Portſmouth*; That divers Perſons of Eminency about the King (as by good Information appears) are deeply ingaged in the Plot: That it is neceſſary the Ports be ſtopt; and that His Majeſty be deſired to Command, that no Perſon attending upon the King, Qeen, or Prince, do depart without leave of His Majeſty, with the humble Advice of His Parliament.

The Houſe of Commons adjourn'd upon this Speech of the Kings, in ſome diſſatisfaction.

May the 3d, The Commons having a Plot diſcovered, fall into the Debate thereof.

The Commons hereupon fell into ſerious debate of this Matter, and the ſame day came to a Reſolution of taking a Proteſtation, which was accordingly taken by the Speaker, and about Three hundred Members then preſent, man by man.

And the ſame day reſolve upon a Proteſtation.

WE the Knights, Citizens, and Burgeſſes of the Commons Houſe in Parliament, finding to the grief of our hearts, that the Deſigns of the Prieſts and Jeſuits, and other Adherents to the See of *Rome*, have of late been more boldly and frequently put in practiſe than formerly, to the undermining and danger of the true Reformed Proteſtant Religion, in His Majeſties Dominions eſtabliſhed: And finding alſo, that there hath been, and having juſt cauſe to ſuſpect there ſtill are, even during the Sitting in Parliament, endeavours to ſubvert the Fundamental Laws of *England* and *Ireland*, and to introduce the exerciſe of an Arbitrary and Tyrannical Government, by moſt pernicious and wicked Counſels, Practiſes, Plots, and Conſpiracies; and that the long intermiſſion, and unhappier breach of Parliaments, hath occaſioned many illegal Taxations, whereby the Subjects have been proſecuted and grieved. And that divers Innovations and Superſtitions have been brought into the Church, Multitudes driven out of His Majeſties Dominions, Jealouſies raiſed, and fomented between the King and his People: A Popiſh Army levied in *Ireland*, and two Armies brought into the Bowels of this Kingdom, to the hazard of His Majeſties Royal Perſon, the Conſumption of the Revenue of the Crown, and the Treaſure of this Realm. And laſtly, finding the great Cauſes of Jealouſie, that endeavours have been, and are uſed, to bring the Engliſh Army into a miſunderſtanding of this Parliament, thereby to encline that Army by force to bring that Army to paſs thoſe wicked Counſels; have therefore thought good to joyn our Selves in a Declaration of our united Affections and Reſolutions, and to make this enſuing Proteſtation.

The Preamble to the Proteſtation.

The

The Proteſtation.

I A. B. *do in the preſence of God Promiſe, Vow, and Proteſt to maintain and defend, as far as lawfully I may, with my Life, Power, and Eſtate, the true Reformed Proteſtant Religion, expreſſed in the Doctrine of the Church of* England, *againſt all Popery and Popiſh Innovation within this Realm, contrary to the ſaid Doctrine, and according to the Duty of my Allegiance, I will maintain and defend his Majeſties Royal Perſon and Eſtate.*

As alſo the Power and Priviledge of Parliaments, the lawful Rights and Liberties of the Subjects; And every Perſon that ſhall make this Proteſtation, in whatſoever he ſhall do, in the lawful purſuance of the ſame; And to my power, as far as lawfully I may, I will oppoſe, and by all good ways and means endeavour, to bring to condign puniſhment all ſuch as ſhall by Force, Practiſe, Counſels, Plots, Conſpiracies, or otherwiſe do any thing to the contrary in this preſent Proteſtation contained. And further, That I ſhall in all juſt and honourable ways endeavour to preſerve the Union and Peace betwixt the Three Kingdoms of England, Scotland, *and* Ireland, *and neither for Hope, Fear, or any other Reſpects, ſhall relinquiſh this Promiſe, Vow, and Proteſtation.*

This Proteſtation was read by Mr. *Maynard*. Here followeth the Names of the Members of the Houſe of Commons, who took the ſame, *May* 3. 1640. *viz.*

Will. Lenthal, Eſq; Speak.
Edward Hide.
George L. *Digby.*
Lord *Faulkland.*
Sir *John Culpepper.*
John Selden.
Orlando Bridgeman.
Sir *William Pennyman.*
Sir *Henry Herbert.*
Sir *Tho. Fanſhaw.*
Sir *William Widdrington.*
Sir *Frederick Cornwallis.*
Robert Holborne, Eſq;
Tho. Chicheley, Eſq;
Sir *George Wentworth.*
William Mallory, Eſq;
Jo. Bellaſis, Eſq;
Sir *Guy Palmes.*
Edm. Waller, Eſq;
Sidney Godolphin, Eſq;
Sir *Nich. Slany.*
Sir *Hen. Slingsby.*
Tho. Jermin, Eſq;
Sir *Tho. Peyton.*
Sir *Philip Muſgrave.*
Sir *Patricius Curwin.*
Sir *John Stowel.*
Sir *John Strangwayes.*
Sir *John Paulet.*
Sir *Rich. Wynn.*
Tho. Tompkins, Eſq;
Arthur Capel, Eſq;
James L. *Compton.*
Sir *Ralph Hopton.*
Geofrey Palmer, Eſq;
Jo. Vaughan, Eſq;
Edw. Montague, Eſq;
Geo. Montague, Eſq;
Will. Plydell, Eſq;
Sir *John Paulet.*
Charles Price, Eſq;
Herbert Price, Eſq;
Sir *Ralph Sidenham.*
Fitzwilliam Cognisby, Eſq;
Baptiſt Noel, Eſq;
Sir *Roger Palmer.*
John Coventry, Eſq;
Edw. Seymor, Eſq;
Sir *Arthur Ingram.*
Sir *Tho. Ingram.*

Sir

Sir *Edw. Verney.*
Sir *Ralph Verney.*
Francis Newport, Esq;
Ben. Weston, Esq;
Lord *Mansfield.*
Sir *William Carnaby.*
Sir *Nicholas Slaning.*
Jo. Craven, Esq;
William Constantine, Esq;
Sir *Edw. Deering.*
Sir *Geo. Dalston.*
Sir *Tho. Bowyer.*
Jo. Hamden, Esq;
Henry Pelham, Esq;
Sir *Tho. Widdrington.*
Sir *Henry Herbert.*
Sir *Edw. Bainton.*
James Cambel, Esq;
Sir *Tho. Heale.*
Sir *Henry Anderson.*
Sir *Harbottle Grimston.*
Sir *Robert Pye*, Senior.
Ferd. L. *Fairfax.*
Sir *Henry Mildmay.*
Sir *William Armyn.*
Sir *Roger North.*
Sir *Walter Deaveraux.*
Tho. Hatcher, Esq;
Sir *Chr. Yelverton.*
William L. *Russel.*
Sir *Philip Stapleton.*
Sir *Henry Cholmly.*
Sir *John Hotham.*
John Pym, Esq;
Sir *Pen. Rudyard.*
Herbert, Esq;
Digby, Esq;
Sir *Gilbert Gerrard.*
Lord *Ruthen.*
Sir *Nevil Pool.*
Denzil Hollis, Esq;
John Maynard, Esq;
Sir *Robert Harly.*
John Glyn, Esq;
Sir *Tho. Barrington.*
William Stroud, Esq;
Nathan. Fines, Esq;
Henry Martin, Esq;
John Bodvil, Esq;
Sir *Fran. Knoles.*
Rich. Shettleworth, Esq;
John Moor, Esq;
Sir *Simon D'Ewes.*
Sir *John Wray.*
Sir *Chr. Wray.*
Sir *Martin Lomly.*
Herbert Morly, Esq;
Tho. L. *Grey.*
Rog. Burgoine, Esq;
Sir *Edw. Hungerford.*
Sir *John Curson.*
Will. Perepoint, Esq;
John Marstal, Esq;
Hugh Owen, Esq;
Norton Knatchbold, Esq;
Sir *Ed. Hales.*
Sir *Ed. Masters.*
John Cowcher, Esq;
Sir *William Strickland.*
Sir *Edw. Boys.*
Sir *Tho. Walsingham.*
Sir *Peter Wrath.*
Tho. Maleveror, Esq;
Edw. Bainton, Esq;
Oliver Cromwel, Esq;
Sir *Gilbert Pickering.*
Will. Whittaker, Esq;
Mich. Oldsworth, Esq;
Sir *John Harrison.*
Sir *Hugh Cholmley.*
Isaac Penington, Esq;
George Peard, Esq;
Sir *Jo. Howard.*
Henry Vaughan, Esq;
Ed. Kirton, Esq;
Ed. Bagshaw, Esq;
Sir *Walter Smith.*
Rich. Harding, Esq;
Bulstred Whitlock, Esq;
Will. Price, Esq;
Henry Lucas, Esq;
Gilbert Willington, Esq;
Sir *Tho. Huchinson.*
Sir *Will. Morly.*
Sir *Henry Bellingham.*
Sir *John Frankland.*
Sir *John Clotworthy.*
Sir *Edw. Munford.*
Will. Kage, Esq;
John Northcot, Esq;
Sir *Tho. Middleton.*
Sir *John Salisbury.*
Sir *Ro. Nappier.*
Tho. Lower, Esq;
Fran. Gerrard, Esq;
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Tho. Fountain, Esq;
Hen. Vernod, Esq;
Lord *Lisle*.
Ed. Dawx, Esq;
Ro. Scowen, Esq;
Sir *Dudly North*.
Lawrance Whitaker, Esq;
Sir *Humphry Tufton*.
Henry Heyman, Esq;
Tho. Hiblethwait, Esq;
Arthur Jones, Esq;
Will. Bell, Esq;
Jo. Harvy, Esq;
Jo. Ash, Esq;
Geo. Gallop, Esq;
Jo. Nash, Esq;
Edw. Ash, Esq;
Rich. Seaburn, Esq;
Cornelius Holland, Esq;
Edm. Dunch, Esq;
Rich. Barwis, Esq;
Humph. Hook, Esq;
Ro. Trelawny, Esq;
Rich. Weston, Esq;
John Goodwin, Esq;
Nath. Stephen, Esq;
Jo. White, Esq;
Sir *Ed. Griffin*.
Rich. Albrough, Esq;
Dr. *Sam. Turner*.
Ral. Snead, Esq;
Ed. Patridge, Esq;
Sir *Peter Temple*.
Poynings Moore, Esq;
Sir *Will. Lewis*.
Peter Venebles, Esq;
Hen. Killagrew, Esq;
John Harris, Esq;
Jo. Moston, Esq;
Peter Leigh, Esq;
Dr. *Tho. Eaden*.
Will. Glanvil, Esq;
Arthur Goodwin, Esq;
Edw. Owner, Esq;
Tho. Toll, Esq;
John Polwhil, Esq;
Simon Thelwal, Esq;
Oliv. St. John Regis Sol.
Sir *Will. Allynson*.
Jo. Crew.
Rich. Catelin, Esq;
Ro. Goodwy, Esq;
Jo. Blakeston, Esq;
Sir *Will. Brereton*.
Miles Corbet, Esq;
Phil. Smith, Esq;
Sir *Rich. Vivion*.
——— *Ravenscroft*, Esq;
Sir *Tho. Middleton*.
Rich. Kingsly, Esq;
Ralph Ashton, Esq;
Will. Fitzwilliams, Esq;
Henry Bellasis, Esq;
Sir *Edw. Ascue*.
Sir *Edm. Fowel*.
Sir *Jo. Price*.
Rich. Boyle, Lord *Dungarven*.
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Roger Hill, Esq;
Sir *Jo. Eveling*.
Edw. Prideaux, Esq;
Giles Green, Esq;
Dennis Bond, Esq;
Roger Matthews, Esq;
Zouch Pate, Esq;
Jo. White, Esq;
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Rich. Reeves, Esq;
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Will. Pewrisoy, Esq;
Will. Spurstow, Esq;
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Ed. Thomas, Esq;
Serj. *Wild*.
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Will. Harrison, Esq;
Gervis Clifton.
Will. Herbert, Esq;
John Woogan, Esq;
Henry Brett, Esq;
John Trevanion, Esq;
Walter Lloyd, Esq;
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Sir *Tho. Ingram*.
Sir *Ro. Crane*.
John Upton, Esq;
John Arundel, Esq;
Jona. Rashly, Esq;
Rich. Arundel, Esq;
John Woddon, Esq;
John Pearsival, Esq;
Sir *Will. Portman*.

Sir

Theobald Gorge, Esq;
Tho. Smith, Esq;
Sir *Martin Lister*.
Sir *Tho. Cheek*.
Tho. Hayle, Esq;
Anthony Bedingfield, Esq;
Sir *Tho. Smith*.
Ralph Ashton, Esq;
John Potts, Esq;
Francis Rowse, Esq;
Pierce Edcomb, Esq;
Sir *Walter Earl*.
Sir *Will. Masham*.
John Gourdon, Esq;
John Role, Esq;
Tho. Arundel, Esq;
Joseph Jane, Esq;
Sir *Philip Parker*.
Arthur Ainslow, Esq;
Geo. Hartnal, Esq;
Edw. Wingate, Esq;
Robert Sicil, Esq;
Sir *William Litton*.
Sir *John Jennings*.
Sir *Oliv Luke*.
Sir *An. Nichols*.
John Broxam, Esq;
John Alured, Esq;
Geo. Buller, Esq;
James Fines, Esq;
Nich. Weston, Esq;
Sir *Beauchamp St. John*.
Sir *Richard Anslow*.
Sir *Jo. Corbet*.
Sir *Alex. Denton*.
Sir *Jo. Parker*.
Sir *Ro. Parkhurst*.
Sir *Ambrose Brown*.
Sir *Sam. Owfield*.
Sir *Rich. Buller*.
Alex. Carew, Esq;
Sir *Nath. Barnadiston*.
Sir *Harvy Baggott*.
Simon Norton, Esq;
Samsons Evers, Serj. at Law.
Philip Sidney, Lord *Lisle*.
John Alford, Esq;
Sir *Ch. Williams*.
Rich. Herbert, Esq;
Sir *Edward Alford*.
Sir *William Plaitor*.
Francis Gamull, Esq;
Sir *Joh. Stepney*.
Sir *Jo. Brook*.
Jo. Fenwick, Esq;
Will. Chadwell, Esq;
Alex. Lutterell, Esq;
Jo. Burlace, Esq;
Sir *Jo. Cook*.
Tho. Cook, Esq;
Tho. May, Esq;
Sir *Richard Lewison*.
John Griffith, Esq;
Matthew Davis, Esq;
John Fettiplace, Esq;
Geo. Loe, Esq;
Rich. Edgcomb, Esq;
Sir *Ed. Redny*.
Sir *Arth. Haswelrig*.
Sir *Fran. Barnham*.
Sir *Tho. Gervis*.
Ro. Wallop, Esq;
James Rivers, Esq;
Will. Haveningham, Esq;
Will. Cawly, Esq;
John Button, Esq;
Tho. Gervis, Esq;
Sir *Hen. Worsly*.
Hen. Darly, Esq;
Valentine Walton, Esq;
Sam. Vassal, Esq;
Hen. Campion, Esq;
Jo. Merrick, Esq;
Herbert Price, Esq;
Tho. Earle, Esq;
Will. Marlet, Esq;
Will. Drake, Esq;
Sir *Ed. Littleton*.
Sir *And. Ludlow*.
Rich. Harman, Esq;
Rich. Shettleworth, Esq;
Sir *John Draidon*.
Will. Ellis, Esq;
Will. Thomas, Esq;
Jo. Pine, Esq;
Will. Jepson, Esq;
John Hotham, Esq;
Tho. Hodges, Esq;
Tho. Moore, Esq;
Godfrey Boswell, Esq;
Antho. Staply, Esq;
Jo. Moyle, Esq;
Will. Hay, Esq;
Ferdinando Stanhop, Esq;
Harbottle Grimston, Esq;
John Craven, Esq;

Rob. Crooke, Eſq;
Edw. Philips, Eſq;
Rob. Reynolds, Eſq;
Sir *Tho. Pelham.*
Ben. Valentine, Eſq;
Sir *Tho. Fanſhaw.*
Matthew Cradock, Eſq;
——— *Lloyd*, Eſq;
Sir *Will. Dalſon.*
Sir *Tho. Woodhouſe.*
Francis Godolphin, Eſq;
Framlingham Gaudy, Eſq;
Anthony Irby, Eſq;
Lord *Wenman.*
John Lowry, Eſq;
Sir *Tho. Danby.*
John Eveling, Eſq;
——— *Long*, Eſq;
George Parry, Eſq;
Will. Morgan, Eſq;
Walter Kirk, Eſq;
Sir *Tho. Parker.*
——— *Grantham*, Eſq;
——— *Tailor*, Eſq;
John Trenchard, Eſq;
Rob. Sutton, Eſq;
John Whiſtler, Eſq;
An. Hungerford, Eſq;
Tho. Everſfield, Eſq;
George Searl, Eſq;
Cha. Baldwin, Eſq;
Rich. Whitehead, Eſq;
Gerrard Napier, Eſq;
Hen. Garton, Eſq;
Mich. Noble, Eſq;
Serjeant *Creſwel.*
Sir *John Holland.*
Sir *Will. Ogle.*
Sir *Charles Groſs.*
Sir *Geo. Stonehouſe.*
Ro. Hurſt, Eſq;
Will. Baſſet, Eſq;
Ralph Godwin, Eſq;
Ro. Nichols, Eſq;
Sir *Er. Knowles.*
Nothan. Hollow, Eſq;
Ambroſe Mannaton, Eſq;
Ro. Walker, Eſq;
Sir *Rich. Brown.*

The Commons ſend a Meſſage to the Lords, concerning the Plot.

A Meſſage was immediately ſent to the Lords to acquaint them, that the Commons had juſt cauſe and ground to ſuſpect, that there hath been, and ſtill is a ſecret practiſe, to diſcontent the Army with the proceedings of the Parliament, to ingage them in ſome deſign of dangerous conſequence to the State, and by ſome miſchievous ways, to prevent the happy ſucceſs and concluſion of this Aſſembly, and to deſire their Lordſhips, that a Select Committee might be appointed to take the Examinations upon Oath, concerning this deſperate Plot and Deſign, in the preſence of ſome of the Commons, and to move his Majeſty in the name of the Parliament, that upon this great and weighty occaſion, no Servant of His Majeſty, the Queen, or Prince, may depart the Kingdom without the leave of his Majeſty, with the Advice of His Parliament, until they appear and be examined. And the Commons immediately agreed upon a Letter to the Army, and ſent it away by an Expreſs, to aſſure them of the Care the Parliament took, to provide Moneys for them, and did not doubt but the Army will give a fair teſtimony of their Affections to the Parliament, notwithſtanding the Evil Deportments of ſome Perſons, who have endeavoured to diſcontent them.

And deſire a Select Committee to take Examinations upon Oath. And that no Servant of the King or Queens Majeſty, depart the Kingdom till they be examined. And ſent a Letter to the Army, to aſſure them of the Parliaments care of them.

At the ſame time the Commons paſſed ſeveral Reſolves, in order to the ſecurity of the Nation, *viz. That ſtrict enquiry be made what Papiſts, Prieſts and Jeſuits, be now about the Town; That the* 1500 *Barrels of Powder going to* Portſmouth *may be ſtayed. That the Forces in* Wiltſhire *and* Hampſhire *be drawn towards* Portſmouth. *And the Forces in* Kent *and* Suſſex *towards* Dover: *And they did declare, That whoſoever ſhould give Counſel or Aſſiſtance, or joyn any manner of way, to bring any Forreign Force into the Kingdom, unleſs it be by Command from His Majeſty, with conſent of both the Houſes of Parliament, ſhall be adjudged and reputed as publick Enemies to the King and Kingdoms.*

The Commons paſs ſeveral Reſolves.

Theſe

These Reſolves the Commons made known to the Lords for their concurrence, and alſo deſired them to move His Majeſty for the ſtop of the Ports; and that the Lord Admiral ſhould place ſuch truſty Commanders in the Ships, for the Security of the Nation, as they could conſide in; in all which, the Lords did moſt readily concur.

These Reſolves and the Proteſtation communicated to the Lords.

The Commons did further Communicate unto the Lords, the *Proteſtation* which they had taken in their Houſe, deſiring the Lords it might alſo be taken by every Member of their Houſe: It was ſent to the Houſe of Lords by Mr. *Hollis*, who at the delivery thereof, did (amongſt other paſſages) expreſs himſelf to this effect;

MY LORDS,

Mr. *Hollis* his Speech in a Meſſage to the Lords about the Plot.

'THe Knights, Citizens, and Burgeſſes of the Houſe of Commons, having taken into their ſerious Conſideration, the preſent State and Condition of this Kingdom; they find it ſurrounded with variety of 'pernicious and deſtructive Deſigns, Practiſes and Plots againſt the well 'being of it, Nay, the very Being of it, and ſome of thoſe Deſigns hatch-'ed within our own Bowels, and Viper-like, working our own deſtruction.

'They find Jeſuites and Prieſts conſpiring with ill Miniſters of State, to 'deſtroy our Religion; they find ill Miniſters conjoyned together, to ſub-'vert the Laws and Liberties; they find obſtructions of Juſtice, (which 'is the Life and Blood of every State,) The Parliament of late years have 'been like the Fig-tree in the Goſpel, without Efficacy, without Fruit, 'commonly taken away, as *Elias* was with a Whirlwind, never coming to 'any maturity.

'The ſame ill Councils which firſt raiſed the Storm, and almoſt Ship-'wrackt the Commonwealth, do ſtill continue, they blow ſtrong like the 'Eaſt wind, that brought the Locuſts over the Land; Is it not time then 'my Lords, that we ſhould unite and concentrate our ſelves, and defeat 'the Counſels of theſe *Achitophels*, which would involve us, our Religi-'on, our King, our Laws, our Liberties, all that can be near and dear un-'to an honeſt Soul, in one univerſal and general Deſolation, to defeat I 'ſay, the Counſels of ſuch *Achitophels*, the Knights, Citizens, and Bur-'geſſes of the Houſe of Commons (knowing themſelves to be ſpecially 'intruſted with the preſervation of the whole, and in their Conſciences 'perſwaded, that the dangers are ſo eminent, as they will admit of no de-'lay) have thought fit to declare their united Affections, by entring into an 'Aſſociation amongſt themſelves, by making a Solemn Proteſtation and 'Vow unto their God, that they will unanimouſly endeavour to oppoſe 'and prevent the Counſels and Counſellors, which have brought upon us 'all theſe Miſeries and the Fears of greater, to prevent the ends, and bring 'the Authors of them to condigne puniſhment, and thereby diſcharge 'themſelves the better before God and Man.

Here the Proteſtation was read unto the Lords, together with the Grounds and Reaſons which induced the Houſe of Commons to make it, which are prefixed before it, by way of Preamble.

Multitudes of People flock to *Weſtminſter*, crying *Juſtice, Juſtice, &c.*

The King's Speech on *Saturday* laſt to both Houſes, being publickly known in the City, rumours were ſpread abroad, concerning deſperate Plots and Deſigns againſt the Parliament, which occaſioned multitudes of People to reſort the *Monday* following, being *May* 3. to both Houſes of Parliament, in ſuch a Confluence as hath not been uſual; they tendred Petitions to both Houſes, crying *Juſtice, Juſtice*, againſt the Earl of *Strafford*, and when the Houſes aroſe, they departed.

Tueſday

The People assemble again in multitudes, which the Lords communicate to the Commons at a Conference.

Tueſday the 4*th* of *May*, the Lords deſired a Conference with the Commons, which was managed by the Lord Privy Seal, who ſpake to this effect:

'That the occaſion of the Conference was ſo viſible, that he ſhould not 'need to ſay more of it, the Multitudes without beſpake the Buſineſs and 'Matter of it; That which he had to ſay was by Command from the King 'to the Peers, to be communicated to both Houſes of Parliament; That 'His Majeſty takes notice, that the People do aſſemble in ſuch unuſual 'numbers, that the Council, and Peace of the Kingdom may be thereby 'interrupted, and therefore as a King that loveth Peace, and taketh care 'that all proceedings in Parliament may be free, and in a peaceable man-'ner, he deſires that theſe Interruptions may be removed; and wiſheth 'both Houſes to deviſe a courſe, how the ſame may be done.

And communicates the Petition of the multitude, as followeth.

At the ſame time the Lord Privy Seal communicated to the Commons, a Petition, which the Lords had the day before received, from the multitude of people that flock'd together in the *Palace-yard*, which was to this effect:

Deſiring Juſtice and Execution upon the Earl of *Strafford*.

'THat whereas your Petitioners did yeſterday petition, for the redreſs 'of many Grievances, and for the execution of Juſtice upon the 'Earl of *Strafford*, and other Incendiaries, and to be ſecured from ſome 'dangerous Plots and Deſigns on foot; to which your Lordſhips have 'this day given Anſwer, that you have the ſame under preſent conſidera-'tion; your Petitioners do render humble thanks: But foraſmuch as your 'Petitioners underſtand, that the *Tower* of *London* is preſently to receive 'a Garriſon of Men, not of the *Hamblets*, (as uſually they were wont to 'do) but conſiſting of other Perſons, under the Command of a Captain, 'a great Confident of the Earl of *Straffords*, which doth increaſe their 'fears of the ſuddain deſtruction of the King and Kingdom; wherein your 'Lordſhips and Poſterity are deeply intereſſed, and this is done to make a 'way for the eſcape of the Earl of *Strafford*, the grand Incendiary.

To be ſecured againſt Plots.

And againſt a Garriſon newly put into the *Tower*.

To make way for the Earl of *Strafford*'s eſcape.

'They humbly pray that inſtant courſe may be taken for the diſcovery 'thereof, and that ſpeedy Execution of Juſtice be done upon the Earl of 'Strafford.

The Lords ſend ſix Peers to the *Tower*, to inquire of this buſineſs.

Whereupon the Lords ſent ſix Peers of their Houſe to the *Tower*, to underſtand what truth there was in this Information, and to demand of the Lieutenant who choſe thoſe men to be lodged in the *Tower*, whether he was privy to it himſelf, and what Order he had to receive them, and what Captain was to Command them? To the two firſt, he ſaid he was wholly ignorant, and for the third he ſaid, he had His Majeſty's Command, to receive One hundred men into the *Tower*, and Captain *Billingſly* to Command them, and to receive only ſuch men as he ſhould bring unto him; but now underſtanding their Lordſhips Order, he did promiſe, that no other Guard ſhould come into the *Tower*, unleſs it were the *Hamblet-men*.

The Lords at the Conference declared, That the Tumults hindred their proceeding upon the Bill of Attainder.

The Lords did further declare at the Conference, that they were drawing to a Concluſion of the Bill of Attainder of the Earl of *Strafford*, but were ſo encompaſſed with multitudes of People, that their Lordſhips might be conceived not to be free, unleſs they were ſent home, whoſe flocking hither was the only hindrance to the diſpatching of that Bill: and therefore deſired the Commons to joyn with their Lordſhips, to find out ſome way how this Concourſe about both Houſes might be avoided. And then they debated the Proteſtation, and paſſed it, and took the ſame.

The Lords took the Proteſtation.

After

After that the Commons returned to the Houſe, Dr. *Burgeſs* was deſired to acquaint the Multitude with the Proteſtation, which both Houſes had taken, which being read by him, and alſo made known unto them, that the Parliament deſired, that they would return home to their Houſes, they forthwith departed.

And the multitudes departed.

The ſaid Proteſtation was afterward tendred to the whole Kingdom, with this intimation, that whoſoever refuſed to take it, ſhould be noted as diſaffected to the Parliament.

The Commons forthwith ordered the bringing in of a Bill, for the continuance of this preſent Parliament, that it might not be Diſſolved without the conſent of both Houſes, which was read the Firſt and Second time, and committed.

A Bill for the continuance of the preſent Parliament, twice read.

That day the Earl of *Strafford* writ this enſuing Letter to His Majeſty.

May it pleaſe your Sacred Majeſty,

IT hath been my greateſt grief in all theſe Troubles, to be taken as a Perſon which ſhould endeavour to repreſent and ſet things amiſs between your Majeſty and your People, and to give Counſels tending to the diſquiet of the Three Kingdoms.

The Earl of *Strafford*'s Letter to the King.

Moſt true it is, (that this mine own private Condition conſidered) it had been a great madneſs, (ſince through your Gracious Favour I was ſo provided) as not to expect in any kind to mend my Fortune, or pleaſe my mind more, than by reſting where your bounteous Hands had placed me.

Nay, it is moſt mightily miſtaken; for unto your Majeſty it is well known, my poor and humble Advices concluded ſtill in this, That your Majeſty, and your People could never be happy, till there were a right underſtanding betwixt you and them; and that no other means were left, to effect and ſettle this happineſs, but by the Counſel and Aſſent of your Parliament, or to prevent the growing Evils of this State, but by intire putting your Self in this laſt reſort, upon the Loyalty and good Affections of your Engliſh Subjects.

Yet ſuch is my misfortune, that this Truth findeth little credit; yea, the contrary ſeemeth generally to be believed, and my ſelf reputed as one who endeavoured to make a ſeparation between you and your People; under a heavier Cenſure than this, I am perſwaded no Gentleman can ſuffer.

Now I underſtand the minds of Men are more and more incenſed againſt me, notwithſtanding your Majeſty hath declared, That in your Princely Opinion I am not guilty of Treaſon, and that you are not ſatisfied in your Conſcience to paſs the Bill.

This bringeth me in a very great ſtreight, there is before me the ruine of my Children and Family, hitherto untouch'd in all the Branches of it, with any foul Crime: Here are before me the many ills, which may befall your Sacred Perſon and the whole Kingdom, ſhould your Self and Parliament part leſs ſatisfied one with the other, than is neceſſary for the preſervation both of King and People: Here are before me the things moſt valued, moſt feared by mortal men, Life or Death.

To ſay Sir, that there hath not been a ſtrife in me, were to make me leſs man, than God knoweth, my Infirmities make me; and to call a deſtruction upon my ſelf and young Children, (where the intentions of my heart at leaſt have been innocent of this great Offence) may be believed, will find no eaſie conſent from Fleſh and Blood.

But with much ſadneſs I am come to a Reſolution of that, which I take to be beſt becoming me, and to look upon it, as that which is moſt principal in it ſelf,

ſelf, which doubtleſs is the Proſperity of your Sacred Perſon, and the Commonwealth, things infinitely before any private man's intereſt.

And therefore in few words, as I put my ſelf wholly upon the Honour and Juſtice of my Peers, ſo clearly, as to wiſh your Majeſty might pleaſe to have ſpared that Declaration of yours on Saturday *laſt, and intirely to have left me to their Lordſhips; So now to ſet your Majeſties Conſcience at liberty, I do moſt humbly beſeech your Majeſty, for prevention of Evils which may happen by your refuſal to paſs this Bill; and by this means to remove (praiſed be God) I cannot ſay this accurſed (but I confeſs) this unfortunate thing, forth of the way towards that bleſſed Agreement, which God I truſt, ſhall ever eſtabliſh between you and your Subjects.*

Sir, My conſent ſhall more acquit you herein to God, than all the World can do beſides; To a willing man there is no injury done, and as by God's Grace I forgive all the World, with a calmneſs and meekneſs of infinite contentment to my diſlodging Soul: So Sir, to you I can give the life of this world, with all the chearfulneſs imaginable, in the juſt acknowledgment of your exceeding favours; and only beg, that in your Goodneſs, you would vouchſafe to caſt your gracious Regard upon my poor Son, and his three Siſters, leſs or more, and no otherwiſe than as their (in preſent) unfortunate Father, may hereafter appear more or leſs guilty of this death. God long preſerve your Majeſty.

Tower, May 4.
1641.

Your Majeſties moſt Faithful

and humble Subject

and Servant,

STRAFORD.

A great Hubbub in the City.

WEdneſday the Fifth of *May* there happened to be a ſtrange Hubbub in the City, upon a falſe Alarm, That the Parliament-Houſe was beſet, and on fire, and all their lives in danger, which occaſioned ſuch running up and down in a confuſed manner, to come to protect them, that the like hath ſcarce been ſeen. This Hubbuub and Alarm happened upon this occaſion, Sir *Walter Earl* was making a Report to the Houſe of ſome Plot and Deſign to blow up the Houſe of Commons; Whereupon ſome Members in the Gallery ſtood up, the better to hear the Report, and Mr. *Moyle* of *Cornwal*, and Mr. *Middleton* of *Suſſex*, two Perſons of good bigneſs, weighed down a board in the Gallery, which gave ſo great a crack, that ſome Members thought it was a Plot indeed; and Sir *John Wray* ſpeaking out, he ſmelt Gunpowder, haſtening back out of the Gallery; ſome Members and others in fear, running out of the Houſe, frighted people in the *Lobby*, who ran into the Hall, crying out, *The Parliament-Houſe was falling, and the Members were ſlain*, and the people running in a hurry

through

through the *Hall*, Sir *Robert Manſel* drew his Sword, bid them ſtand for ſhame; he ſaw no Enemy to hurt the Parliament, nor heard no noiſe of the fall of the Parliament-Houſe; but ſome of them haſtned by Water from *Weſtminſter*, and carried the Alarm into *London*, which occaſioned ſo great a reſort of People in multitudes to *Weſtminſter*, to ſave the Parliament, and one Regiment of Trained-Bands, Commanded by Collonel *Manwaring*, upon Beat of Drum, were inſtantly Armed, and Marched as far as *Covent Garden* (beyond their Liberties) to ſecure the Parliament, but finding the Alarm falſe, they returned again. The ſame day the Commons paſſed the Bill for the continuance of the preſent Parliament, and carried the ſame up to the Lords.

The Houſe of Commons Commanded all their Members to attend the Houſe, and not to depart the Town.

The next day the Committee appointed to joyn with the Lords, for taking Examinations concerning the Plot, did acquaint the Houſe, that ſix or eight of the chief Conſpirators were fled, of which Mr. *Henry Jermin*, and Mr. *Henry Piercy*, Members of the Houſe, were two, and that they were gone towards *Portſmouth*; Upon which Report, preſent Information came, that the Queen was preparing to go to *Portſmouth*, thereupon both Houſes had a Conference, and agreed to move Her Majeſty to ſtay her Journey for the ſecurity of her Perſon, Her Majeſty not knowing what danger ſhe might be expoſed to in thoſe parts: In the mean time, one Lord and two Commoners were diſpatched to *Portſmouth*, with private inſtructions, to propoſe certain Queries to the Governor there, and to take further care for the ſecurity of the Place and Haven of ſuch importance, and they took an Oath of Secreſie, as thoſe Lords and Commons had done, who were appointed to examine the Plot.

Conſpirators fled.

The Queen deſigns to go to *Portſmouth*.

His Majeſty was deſired by both Houſes, to iſſue out a Proclamation, for the calling in Mr. *Piercy*, and Mr. *Jermin* within a time limited, which was accordingly granted. And the Lords were deſired by the Commons to haſten the Bill of Attainder of the Earl of *Stafford*.

Proclamation to call in the Conſpirators.

To prevent further Diſcontents in the Army, this Letter was ſent by Order, to Sir *Jacob Aſhly*, and Sir *John Coniers*, to be communicated to the Army in the *North*.

A Letter to prevent the ſign to engage the Army againſt the Parliament, ſent to Sir *Jacob Aſhly*, and Sir *John Conyers*.

'WHereas there hath been juſt cauſe of Jealouſie, that there hath been ſome ſecret Attempt and Practiſes, to infuſe into the Army a miſtake of this Parliament, to ſome dangerous intent and purpoſe againſt this State; and that now the matter is grown to ſtrong Preſumption upon farther diſcoveries, and by reaſon that ſome of thoſe which were ſuſpected to have been active therein, are fled upon the firſt ſtirring thereof, before ever they were once named. It pleaſeth this Houſe to declare, That notwithſtanding they intend to ſearch into the bottom of this Conſpiracy, yet purpoſing to proceed, eſpecially againſt the principal Actors therein, this Houſe hath reſolved, whereunto the Houſe of Peers hath likewiſe conſented, that for ſuch of the Army as the Conſpirators have endeavoured to work upon, if they ſhall teſtifie their Fidelity to the State by a total Diſcovery of that which they know, and can teſtifie therein; they ſhall not only be free from all puniſhment, but alſo ſhall be eſteemed to have done that, which is for the ſervice of the State, in the diſcovering ſo dangerous a Plot, and for ſuch of the Army as are, and ſhall be found no ways tainted with the Deſign, or knowing any thing thereof, ſhall make ſuch diſcovery as aforeſaid, as

'this Houſe ſhall no ways doubt of their Loyalty and Fidelity, ſo it will 'have a ſpecial care, not only to ſatisfie all ſuch Arrears, as this Houſe 'hath formerly promiſed to diſcharge, but alſo give a fair Teſtimony of 'the ſenſe they have of their preſent and paſt wants; and it is Ordered 'by this Houſe, that immediately after the Receipt hereof, you ſhould 'Communicate this their Declaration unto all theOfficers and Members of 'the Army, under your Command.

The Plot conſiſted of three heads.

This Plot conſiſted of three Heads, the firſt was the deſign upon the *Tower*; the ſecond to engage the Army; the third, to bring in Foreign Forces. For the *Tower*, it appeared to be thus, Captain *Billingſly* being examined upon Oath, confeſſed that he was acquainted with Sir *John Suckling*, that the ſaid Sir *John* lately offered him employment in one of the King's Ships then at *Portſmouth*; afterwards employment for *Portugal*; That this Deponent having notice to meet at the Privy Lodgings at *White-hall*, did there receive Orders to get 100 Men to Serve in the *Tower* under him, and if he did fail, he ſhould anſwer it with his Life: and afterwards meeting with Sir *John Suckling*, and acquainting him therewith, he told him he would furniſh him with the ſaid number. Sir *William Bellfower*, Lieutenant of the *Tower* being Examined, ſaid, that he had a Command to receive Captain *Billingſly* with 100 Men into the *Tower*, who ſhould be under his Command. That the Earl of *Strafford* at that time expoſtulating with him about his eſcape, told him he would attempt nothing in that kind without his Privity, and that he would have the King's Warrant for his Indemnity, and that the Warrant ſhould be to Command him to remove the ſaid Earl of *Strafford* from the *Tower* to ſome other Caſtle, and he would then take his opportunity to eſcape; that the Lieutenant of the Tower not giving any complying anſwer thereunto, the ſaid Earl ſent again to intreat him to come to him, and would have perſwaded him to let him make an Eſcape; ſaying, without your concurrence it cannot be done, and if you will conſent thereunto, I will make you preſent payment of Twenty two Thouſand pounds, beſides, you ſhall have a good Marriage for your Son. To which the Lieutenant of the Tower replyd, he was ſo far from concurring therein, that he was not to be further moved in ſuch a thing; thus much the Lieutenant delivered upon Oath.

Capt. *Billingſly* his Examination, that he had Orders to get 100 Men into the Tower.

The Earl expoſtulates about his eſcape

Three other Witneſſes were examined, who did depoſe, That being deſirous to ſee the Earl of *Strafford*, they were carried to the back door of the Gallery where his Lodgings were, and heard the Earl of *Strafford* diſcourſe, as he was walking with Mr. *Slingsby* (as afterwards they underſtood his name to be) about his eſcape, as they conceived it, for they heard him ſay, where is your Brothers Ship, to which he anſwered, in ſuch a place, and that he might be there in three hours, if the Lieutenant of the Tower were true to him. And heard the Earl farther ſay, that if the King could have done any thing, His Majeſty would by His Warrant have done it before now, and have ſent for him to be removed; but now there was nothing to be thought upon but an eſcape; and alſo heard the ſaid Earl ſay, If this Fort could be guarded two or three Months, there would Aid enough come.

Examination of three Witneſſes more, as to the Earl's eſcape.

The Plot concerning the Army was thus.

Col. *Goring* upon his Examination in the Houſe of Commons, did confeſs, that Sir *John Suckling* was the firſt Perſon that ever made any over-

Col. *Gorings* Examination about the Plot.

ture

ture unto him concerning the Army's Marching towards *London*; afterwards being in the Queens Lodgings, he met with *H. P.* which was about the beginning or middle of *Lent* laſt, and Mr. *P.* told him, there was a Conſultation of Officers to be had, concerning the good of the Army, and deſired him to go along with him to his Chamber, where the Meeting was to be; there were preſent at the ſame Meeting Comiſſary *Wilmott*, Col. *Aſhburnham*, Capt. *Pollard*, Sir *John Berkley*, *Dan. O-Neal*, Mr. *Jermin* and himſelf. That *Mr. P.* ſaid, there were Propoſitions to be made, which were of great Concernment, and that it was neceſſary there ſhould be an Oath of Secreſie taken before any thing was propounded; That the Oath ſhould be to this purpoſe, that we ſhould neither directly nor indirectly diſcover any part of the Conſultation, nor ever to think our ſelves diſſolved from that Oath, by any other Oath, which might be impoſed upon us hereafter. Which Oath was read out a Paper, which was tendered unto them, and that thereupon they were Sworn by laying their Hands upon the Bible. That he and *Jermin* were Sworn together, for the reſt had taken the Oath before.

Then three Propoſitions were made unto them, being the ſame in ſubſtance, expreſſed in Mr. *P's.* Letter.

He farther ſaid, That the whole number there met, were of Opinion that the Army ſhould not March towards *London*, till a Declaration had been firſt ſent up to the Parliament. That he, the ſaid *Goring* anſwered, it was a nice Point to interpoſe in the Proceedings of the Parliament, and did propound ſome difficulties to allay the buſineſs, to divert Comiſſary *Wilmot*, and thoſe other Perſons from ſo dangerous a Buſineſs, and ſaid, that he did think it was a deſign of Folly to undertake it, for they muſt think that the Scots would take the advantage upon the Army's removal Southwards, whoſe Correſpondency was ſo great with the City, and for them to begin to ſhew their Teeth, and not to be able to Bite, would argue little Prudence. That they ſhould either undertake it ſo, as to go thorough with it, or to let it alone; That he did ask them what Ammunition they had to accommodate ſo great an Army, and whether they could command the Ammunition in the *Tower*. That *Wilmot*, *Pollard*, and *Aſhburnham* then made anſwer, they had no purpoſe to go to *London*, for to Surprize the *Tower*, was to Conquer the Kingdom. That this amongſt other Paſſages, was part of the Diſcourſe at the firſt Meeting.

That ſhortly after, there was another Meeting of the ſame Perſons, and in the ſame Place, in Mr. *Piercies*, Chamber, where there were Propoſitions of another Nature, Deſperate and Impious on the one hand, and Foolish on the other: and that he endeavoured by Argument to divert them, by propounding an impoſſibility to effect the ſame: For how could the Army Lodged in ſeveral Quarters, unpaid, and at ſuch a diſtance, March on a ſudden to *London*, and Surprize what they had in Deſign?

That Mr. *Jermin* was the Perſon that firſt propoſed the Marching of the Army towards *London*; That he for his part, declared himſelf abſolutely againſt it: That *Mr. Jermin* reply'd to him in private; You do not diſlike the Deſign, for you are as ready for any wild mad undertaking as any man I know, but you diſlike the temper of thoſe perſons who are ingaged in the buſineſs.

He did further confeſs, that he propounded, that *Suckling* might alſo be admitted to the Conſultation, but *Wilmot*, *Aſhburnham*, and *Pollard* would not hear of it; and they three did then declare themſelves againſt the Armies Marching towards *London*.

Then he took occaſion to ſay, That he did acquaint ſome Members of both Houſes, whom he could name, that there were ſome of the Army whom they did not think ſo well of, were more Faithful and Serviceable to the Parliament than they were aware of, which time would produce, and named them; and they did accordingly give Teſtimony of his Integrity, ſo far as general Terms could diſcover the Deſign: He confeſſed, that Mr. *Jermin* did make ſome offers unto him, to relinquiſh the Government of *Portſmouth*, upon ſome other Terms of Advantage; but he ſaid, he did not conclude any thing, for he would firſt ſee the performance of what was offered, ſo had no farther diſcourſe with him concerning that buſineſs, but he doth believe that *Suckling* and *Jermin* did confer together about the Deſign; he ſaid, they did deſire his Opinion about a General; ſome were for *Eſſex*, ſome for *Holland*, but he, with *Jermin*, were for *Newcaſtle*.

Being again Examined upon his Oath, before the Committee of Lords and Commons, and preſſed more particularly to anſwer queſtions not before propoſed unto him; he did confeſs, that meeting with Mr. *Jermin* in the Queens Drawing-Chamber, Her Majeſty came and told him, the King would ſpeak with him, and meeting with His Majeſty, he told him, he was minded to ſet his Army into a good Poſture, being adviſed thereto by the Earl of *Briſtol* (as he ſaid) and his Majeſty then Commanded him to joyn with Mr. *Piercy*, and ſome others in that Buſineſs.

As for the Deſigns from beyond Seas, the Committee did make Report to the Houſe, that it was clear'd unto them, that *Jermin* endeavour'd to have got the Poſſeſſion of *Portſmouth*; That the King of *France* had drawn down great Forces to the Sea-ſide; That the Governor of *Calice* had examin'd ſome Engliſh-men, whether the Earl of *Stafford*'s Head was yet off; and this was in point of time the Firſt of *May*, according to the Engliſh Stile, and Sr. *Phil. Cartwright*, Governor of *Guernſey*, wrote Letters alſo, which came in great haſte; That he underſtood the French had a deſign upon that Iſland, or ſome part of *England*. It alſo appeared to the Committee by divers of the Letters, which were opened coming from beyond Sea, that they expected the Earl of *Strafford* there, and that they hoped the Horſe-leeches ſhould be ſtarved for want of Blood; and in ſome of thoſe Letters, there was advice to the Cardinal to beſtir himſelf betimes, to interrupt the height of the Proceedings here in *England*. Alſo Examination of ſome Prieſts were taken in *Lancaſhire*, and ſent up to *London*, which were there taken the 3*d*. of *May*, which did teſtifie, that the Prieſt did ſay, the Parliament ſhould be ſuddenly Diſſolved, for the Army was to March up thither with all ſpeed, and they would be ſeconded by Forces out of *France*; and that *Mountague* did write out of *France* to Mr. *Piercy* (which was alſo Intercepted) That if he did perform what he had undertaken, he would be made a Knight of the Garter.

Mr. Piercy's *Letter to the Earl of* Northumberland, *and by him Preſented to the Parliament.*

Mr. Piercy his Letter againſt the Plot.

'WHat with my own Innocency, and the Violence I here is againſt 'me, I find my ſelf much diſtracted; I will not ask your Coun-'ſel, becauſe it may bring prejudice upon you, but I will with all Faithful-'fulneſs and Truth tell you, what my Part hath been, that at leaſt it may 'be cleared by you, whatſoever becomes of me.

'When

'When there was 50000 *l.* deſigned by the Parliament for the Engliſh 'Army, there was (as I take it) a ſudden Demand by the Scots at the 'ſame time, of 25000 *l.* of which there was 15000 *l.* ready; this they preſ-'ſed with much neceſſity, ſo as the Parliament did (after an Order made) 'think it fit for them to reduct 10000 *l.* out of the 50000 *l.* formerly 'granted, upon which, the Soldiers in our Houſe were much Scandalized, 'amongſt which was one, and ſitting by *Wilmot* and *Aſhburnham*, *Wilmot* 'ſtood up and told them, *If that the Scots could procure Money, he doubted 'not but the Officers of the Engliſh Army might eaſily do the like*; but the 'firſt Order was reverſed notwithſtanding, and 10000 *l.* given to the 'Scots, this was the cauſe of many diſcourſes of diſlike among us, and 'came to this purpoſe, That they were diſobliged by the Parliament, and 'not by the King, this being ſaid often to one another, we did Reſolve, 'that *Wilmot*, *Aſhburnham*, *Pollard*, *O-Neal*, and my ſelf, to make ſome 'expreſſions of Serving the King in all things he would Command us, 'that were Honourable for Him and us, being likewiſe agreeing to the 'Fundamental Laws of the Kingdom, that ſo far we would live and die 'with him. This was agreed upon with us, not having any Communica-'tion with others, that I am coupled now with all; and further, by their 'joynt conſent, I was to tell His Majeſty thus much from them, but with-'al, I was to order the matter ſo, as the King might apprehend this as a 'great Service done unto him at this time, that when Affairs were in ſo ill 'Condition, and they were moſt confident they would engage the whole 'Army thus far, but farther, they would undertake nothing, becauſe 'they would neither infringe the Liberty of the Subjects, nor deſtroy the 'Laws; to which I and every one conſented; and having their Sence, 'I drew the Heads up in a Paper, which they all approved of when I 'read it, and then we did by an Oath, promiſe one another, to be con-'ſtant and ſecret in all this, and did all of us take this Oath together; 'then I ſaid, Well Sirs, I muſt now be informed, what your particular 'Deſires are, that ſo I may be the better able to Serve you, which they 'were pleaſed to do; and ſo I did very faithfully Serve them therein, 'as far as I could: This is the Truth, and all the Truth, upon my Soul. 'In particular Diſcourſes after that, we did fall upon the Petitioning of 'the King and Parliament for Money, there being ſo great Arrears due 'to us, and ſo much delays made in the procuring of them, but that was 'never done.

The Heads were theſe,

1. *Concerning the Biſhops Functions and Votes.*
2. *The not Disbanding of the Iriſh Army until the Scots were Disbanded too.*
3. *The endeavouring to Settle His Majeſties Revenue to that proportion it was formerly.*

'And it was Reſolved by us all, if the King ſhould require our Aſſiſt-'ance in thoſe things, that as far as we could, we might contribute there-'unto, without breaking the Laws of the Kingdom. And in caſe the King 'ſhould be denied, thoſe things being put to them, we would not fly 'from him: All theſe Perſons did Act and Concur in this as well as I. 'This being all imparted to the King by me from them, I perceived he had 'been Treated with by others, concerning ſome things of our Army which 'agreed not with what was propoſed by me, but tended to a way more 'ſharp and high, not having limits, either of Honour or Law. I told the

'King

'King he might be pleaſed to conſider with himſelf, which of the ways
'it was fit for him to hearken unto; for us, we were reſolved not to de-
'part from our grounds; we ſhould not be diſpleaſed whoſoever they
'were, but the particular of the Deſigns, or the Perſons, we deſired not
'to know, though it was no hard matter to gueſs at them; In the end, I
'believe the Danger of the one, and the Juſtice of the other made the King
'tell me, he would caſt off all thoughts of other Propoſitions but ours,
'as things not practicable, but deſired notwithſtanding, that *Goring* and
'*Jermin*, who were acquainted with the other proceedings, ſhould be
'admitted amongſt us; I told him, I thought the other Gentry would ne-
'never conſent to it, but I would propoſe it, which I did, and we were
'all much againſt it, but the King did preſs it ſo much, as at the laſt it
'was conſented unto, and *Goring* and *Germin* came to my Chamber there;
'I was appointed to tell them, after they had Sworn to Secreſie, what we
'had propoſed, which I did; but before I go into the Debate of the way,
'I muſt tell you, *Germin* and *Goring* were very earneſt *Suckling* ſhould be
'admitted, which we did all decline, and was deſired by all our men to be
'reſolute in it, which I was, and gave many Reaſons; whereupon
'*Mr. Goring* made anſwer, he was engaged with *Suckling*, his being em-
'ployed in the Army; but for his meeting with us, they were content to
'paſs it by: Then we took up again the ways that were propoſed, which
'took great debate, and theirs differed from ours in *Violence* and *Heat*, which
'we all proteſted againſt, and parted diſagreeing totally, yet remitted it
'to be ſpoken of by me and *Jermin* to the King, which we both did, and
'the King conſtant to his former Reſolutions, told them theſe ways
'were all vain and fooliſh, and would think of them no more. I omit
'one thing of *Mr. Goring*, he deſired to know how the Chief Commands
'were to be diſpoſed of, for if he had not a Condition worthy of himſelf,
'he would not go along with us; We made anſwer, That no Body
'thought of that; we intended, if we were ſent down, to go all in the
'ſame Capacity we were in, he did not like that by any means, and
'by that did work ſo with *Mr. Chidley*, that there was a Letter ſent by
'ſome of the Commanders, to make him Lieutenant-General; and when
'he had ordered this matter at *London*, and *Mr. Chidley* had his Inſtructi-
'ons, then did he go to *Portſmouth*, pretending to be abſent when this was
'a working; we all deſired my Lords of *Eſſex* or *Holland* to be General,
'but *Goring* and *Germin* were for *Newcaſtle*. They were pleaſed to give
'Report, that I ſhould be General of the Horſe, but I proteſt, neither to
'the King, nor any elſe did I ſo much as think of it; My Lord of *Holland*
'was made General, and ſo all things were laid aſide: And this is the
'Truth, and all the Truth I knew of theſe Proceedings; and this I will,
'and do proteſt unto you upon my Faith, and *Wilmot*, *Aſhburnham* and
'*O-Neal*, have at ſeveral times confeſſed and ſworn; I never ſaid any thing
'in the Buſineſs, they did not every one agree unto and juſtifie. This
'Relation I ſent you, rather to inform you of the Truth of the matter,
'that you may the better know how to do me good, but I ſhould think
'my ſelf very unhappy to be made a betrayer of any Body; what con-
'cerned the *Tower*, or any thing elſe, I never medled withal, nor ever
'ſpake with *Goring*, but that night before them all, and I ſaid nothing but
'what was conſented unto by any Party; I never ſpake one word with
'*Suckling*, *Carnarvan*, *Davenant*, or any other Creature. Methinks, if my
'Friends and Kindred knew the Truth and Juſtice of the matter, it were
'no hard matter to ſerve me in ſome meſaure.

Afterwards,

Afterwards was Read Father Philip's *Letter to Mr.* Montague, *as followeth.*

'THe good King and Queen are left very naked; the Puritans, if they durſt, would pull the good Queen in pieces. Can the good King of *France* ſuffer a Daughter of *France*, his Siſter, and her Children to be thus Affronted? Can the wiſe Cardinal endure *England* and *Scotland* to unite, and not be able to diſcern, in the end, it is like they will joyn together, and turn head againſt *France?* A ſtirring active Ambaſſador might do good here; I have ſent you a Copy of the King's Speech on *Saturday* laſt, at which time he diſcharged his Conſcience concerning the Earl of *Strafford*, and was adviſed to make that Speech by the Earl of *Briſtol*, and the Lord *Savil.*

Father *Philips* his Letter againſt the Parliament.

'This Speech did much operate to the diſadvantage of the Earl of *Strafford*, for the Commons were thereby much incenſed and inflamed againſt him, and this brought forth the next day, being *Monday*, a Proteſtation which was taken in both Houſes of Parliament of the ſame nature, but rather worſe than the *Scotch Covenant.*

'The Londoners, who are very boiſterous, came upon *Monday*, 5, or 600, and were ſo rude, that they would not ſuffer the Lords to come and go quietly and peaceably to their Houſe, but threatned them, that if they had not Juſtice, and if they had not his Life, it ſhould go hard for all thoſe that ſtood for him; following them up and down, and calling for *Juſtice, Juſtice, Juſtice.*

'There was in the Houſe of Commons Fifty ſix that denied to paſs the Earl of *Strffords* Bill, their Names were taken, and they were fixed upon Poſts in divers parts of *London*, and there was written over head, *Theſe are* Straffordians, *the Betrayers of their Country.*

'By this means it came to paſs, that the Lords and Judges were much affrighted, and the moſt of his Friends in the Lords Houſe forſook him, all the Popiſh Lords did abſent themſelves, the Lords of *Holland* and *Hartford* were abſent, ſo was *Briſtol* and others; *Savile* and the Duke only ſtuck cloſe and faithfully to him, and ſome few other Lords; God knows, the King is much dejected, the Lords much affrighted, which made the Citizens and the Houſe of Commons ſhew their heads; ſome have braved little leſs than to Unthrone His *Majeſty*, who, if he had but an ordinary Spirit, might eaſily quaſh and ſuppreſs theſe People Our good Queen is much afflicted, and in my Conſcience, the Puritans. if they durſt, would tear her in pieces. This cannot be for the Honour of *France*, to endure a Daughter of that Nation, to be Oppreſſed and Affronted.

'The Earl of *Holland* is made General of the Army, whither he is gone down; the Earl of *Newport*, Maſter of the Ordnance; *Ballſower*, Lieutenant of the Tower, hath proved an arrant Traitor to the King, who Commanded him upon his Allegiance, to receive a Captain and 100 Men into the Tower, which he moſt Traiterouuſly refuſed to do.

Earl of *Holland* General of the Army.

'There was a Report in *London*, that the Parliament Houſe was on fire, whereupon there were many thouſands of People very ſuddenly gathered together; whereby you may eaſily ſee the Heat and Violence of the Peoples Affections, *May* the 26*th*. *An. Dom.* 1641.

Upon

Father *Philips* to be ſent for

Upon the reading of this Letter, and exceptions taken at his expreſſion, That the *Puritans would tear the Queen in pieces*, and at other paſſages in the Letter; and upon Information alſo given, of his endeavouring to ſeduce the King's Subjects to the Popiſh Religion: It was Ordered he ſhould be ſent for to be examined; who thereupon applyed himſelf to His Majeſty, and the King told him, he would know what the Buſineſs was before he ſhould go, as *Philips* told the Serjeant, and ſo refuſed to come with him; hereupon the Houſe of Commons deſired Mr. Treaſurer to acquaint His Majeſty, That they had ſome cauſe to examine *Francis Philips*, a Romiſh Prieſt, and to that end ſent him a Summons, which he doth refuſe to obey, and makes his Majeſty's Houſe a Sanctuary in caſe of High Treaſon; That in reſpect to His Majeſty, the Houſe doth forbear to take further courſe herein till His Majeſty be farther acquainted with it.

He appears.

Hereupon Father *Philips* appeared, and was called to the Bar of the Houſe, where he firſt kneeled, and afterwards ſtood up, and being demanded the Reaſon wherefore he appeared not? he anſwered, becauſe the Warrant was to apprehend *Francis Philips*, and his name was *Robert Philips*, and that the Queen wiſh'd him to ſtay till he had ſpoken with the King, and the King told him, the Houſe may ſend for him, when they call for any of his Servants, till then he need not go; and the Letters beforementioned, being produced unto him, he confeſſed the ſame to be his own hand-writing. The farther Examination of this Buſineſs was referred to the Committee for the Popiſh Hierarchy, who drew up this Impeachment following,

The Impeachmeut, and Articles of Complaint againſt Father Philips, *the Queens Confeſſor, lately Committed to the Tower by the Parliameut.*

I. THat the ſaid Father *Philips* hath been obſerved to be a great cauſe, both in himſelf and his Adherents, of a great part of the unquietneſs of this State.

II. He, with *Parſons*, and others their Aſſiſtants, were the only cauſe that the Pope was ſtirred up to ſome *Breves* to theſe Kingoms of *England* and *Scotland*, to hinder the Oath of Allegiance, and Lawful Obedience of the Subjects to our Gracious King, that ſo they may ſtill fiſh in troubled Waters.

III. The Damnable Doctrine which he and other Jeſuits had taught, to Deſtroy, and Depoſe Kings, hath been the cauſe of the Civil Wars, like to befall theſe Kingdoms, if God in his Mercy do not prevent it.

IV. They have been the cauſe of the Monopolies projected in this Kingdom, eſpecially concerning Soap, the Foreſt of *Dean*, and marking of Butter-Cask, where all the Parties were Partners, and Confederates with them, as Sir *Baſil Brook*, Sir *John Winter*, and a Brother-in-law of the ſaid Sir *John*, that lived in *Worceſter-Shire*, and Mr. *Ployden*, whoſe Servant named *Baldwin*, hath been ſeen to deliver to Captain *Read*, a Subſtitute of the Jeſuits, an hundred pound at a time to one Jeſuite.

V. Father

V. Father *Philips* hath been a great Actor with the Superior of the *Capuchins*, who is a moſt turbulent Spirit, and was ſent thither by Cardinal *Richlieu* of *France*, to be a ſpy at this Court for the French Faction: And hath therefore laboured by all means to breed diſſentions; for the French aim at nothing more, than to make a Schiſm betwixt the *Engliſh* and the *Scots*, that this State might be ſo weakened, and made unable to withſtand them, that ſo they might have an opportunity to Conquer theſe Kingdoms; theſe unquiet Spirits having acceſs to Her Majeſty, may importune things not fit for the State.

VI. The ſaid Father *Philips* hath been guided by a Gray Fryer, who by degrees hath intruded himſelf to be a Clerk of her Majeſtys Chappel, and Chaplain Extraord. in time of progreſs, who when he is out of *London*, goeth by the name of Mr. *Wilſon*, but his true name is *Will. Thomſon* Dr. of Divinity, as ſome Jeſuits have affirmed; but a moſt furious Spirit, and unquiet, and therefore by Nickname, is by ſome called *Cacafugo*, that is as much as if in Engliſh you ſhould ſay *Shit-fire*; by whom Father *Philips* hath been ſo led, that he hath been very officious to perform whatſoever he would have done. Theſe two have ruled all the buſineſs concerning the two Kingdoms on the Papiſts part, and for the moſt part of *Rome* alſo.

VII. The ſaid Father *Philips* hath placed many unfit perſons about Her Majeſty, Sir *viz. John Winter* to be Her Majeſties Secretary, Signior *Georgeo* come late Agent from the Pope, his Brother was by his meanes admitted to be Servant Extorardinary to the Queen, a man altogether unfit for that place, a moſt ſcandalous perſon, having three Wives, all now alive.

VIII. Sundry perſons by thth ſaid Father *Philips* have been admitted to be the Queens Servants Extraordinary, by ſome ſuppoſed Office or other, as Mr. *Laburn*, *Geo. Gage*, (Brother to Col. *Gage*) have both Oratorian Prieſts, the one of the French Faction very ſeditious, the other of the Spaniſh, whoſe Brother is now left Reſident at *Rome* for them, by his maſter Mr. *Willliam Hamilton* late Agent at *Rome*; *Penrick* is ſworn Servant Extroardinary to Her Majeſty, who is a ſworn Spaniard, and Intelligencer for *Rome*, in reſpect his Brother is Agent here by Father *Philips*; theſe and many others, who are factious and turbulent ſpirits, have by Father *Philips* his means, received Protection from the Queens Majſty.

IX. The ſaid *Philips* hath been much ruled by Sir *Toby Mathews*, Sir *John Winter*, and Mr. *Walter Mountague*.

X. He was very forward with his Complices, for the breaking of the Ice to begin the Treaty here for the Popes Honors ſake, and when Sir *Robert Dowglas*, and *Signior Georgeo* were nominated, whom he thought moſt fit, Cardinal *Richlieu* was thought fitteſt to be the man who ſhould direct him to begin the correſpondency between the Pope and the Queen, and therefore he was ſent to *France* with many Letters, and from thence he was diſpatched for *Rome* by the Cardinal, where he was received with great reſpect; and after a *Viatick*, he was diſpatched again for *England* with ſome few ſmall Gifts, as *Pictures*, *Croſſes*, *Agnus Die's*, and ſuch like Popiſh ſtuff, to Father *Philips*.

XI. The ſaid Father *Philips* was the chief agent in correſpondency with, and bringing in of Signior *Georgeo Parſons*, the Oratorian Prieſts, by whoſe direction this Prieſt, being at *Paris*, left wearing Prieſts Cloaths, and went in the Habit of a Gentleman; and becauſe he had a ſhaven Crown, therefore he wore a Periwig, and Father *Philips* directed all thoſe that ſent to write to him, as to an Italian Gentleman, deſirous to ſee theſe Kingdoms, and by Father *Philip*'s direction, he afterwards came hither, who did here contrive for the ſpace of two years, practiſing great and dangerous Innovations from place to place, and then having diſpatched his buſineſs, returnes to *Rome* with great Preſents from the Catholicks of the greater ſort.

XII. Whereas it hath pleaſed God to bleſs us with a hopeful Prince, to the comfot of our King and Kingdom, yet the ſaid Father *Philips* hath attempted to traduce his tender years to Popery; but God hath prevented him of his purpoſe, and let us pray to God to preſerve that Royal Race from Popery; and the whole *Land* from all Innovations, that Our Gracious King may rule Glorioufly, and the whole *Land* live in peace to the Honor of God, and Comfort of us all, *Amen.*

Several Votes againſt Mr. *Peircy* about the Plot.

Reſolved, That Mr. *Henry Peirey* in the Months of *March* and *April* laſt, in the Pariſh of St. *Martins*, in the County of *Middleſex*, did compaſs, Plot, and Conſpire with others, to draw the Army together, and imploy the ſame againſt the Parliament, and by force and dread thereof, to compel the Parliament to agree to certain Propoſitions by them contrived, and to hinder and interrupt the Proceedings of the Parliament; The like Reſolution in the ſame words concerning Mr. *Jermin*, Sir *John Suckling*, *&c.*

Reſolved, That in purſuance of the ſaid Deſign, the ſaid *Henry Peirey* by the Plot and Combination aforeſade, did endeavour to perſwade divers Members of the Houſe of Commons of the ſaid Parliament and others, being Officers of the ſaid Army, that is to ſay, *Wilmot*, *Aſhburnham*, *Berkly*, *Pollard*, and *Daniel O-Neal*, that they were diſobliged by the Parliament, thereby to incenſe them, and to effect them againſt the Parliament, and did hold divers conſultations with the ſaid parties, to effect the ſaid wicked and dangerous Deſign; and to that purpoſe, did ſet down in Writing certain Propoſitions to the effect as followeth, *viz.* *The preſerving of Biſhops in their Functions and Votes*; *The not Disbanding of the Iriſh Army, untill the Scots were Disbanded*; *And the endervouring to ſettle the King's Revenue to the proportion itwas formerly.*

Reſolved, That the ſaid *Henry Peircy* did in purſuance of the Plot and Combination aforeſaid, and for the more ſecret carriage thereof adminiſter to the ſaid parties a wicked and unawful Oath, whereby they did ſwear upon the Holy Evangeliſts, not to reveal any thing that was ſpoken concerning the buſineſs, that was in Conſultation, directly or indirectly, nor to think themſelves abſolved by any other Oath that ſhall be after taken by them, from the Secreſie enjoyned by the ſaid Oath.

Reſolved, that the ſaid *Henry Piercy* at the time of the ſaid Oath was taken, and at divers other times did propound and endeavour to perſwade the perſons before-named, and other Officers of the ſaid Army, to put the ſaid Army into a Warlike poſture, and to bring them up to *London*, and likewiſe

likewiſe to make themſelves ſure of the *Tower*, and ſo by force to conpel the Parliament to conform to their Will, and he with *Suckling*, *&c.* did endeavour to work a belief in the ſaid Army, that the King and Parliament would diſagree, and ſo to perſuade them to adhere to His Majeſty againſt the Parliament; and ſaid, that all the French about the City of *London* would aſſiſt them, and to the great ſcandal of the King, That the Prince and the Earl of *Newcaſtle* were to meet the Army at *Nottingham*, with a Thouſand Horſe; and that *Suckling* to encompaſs the Deſign of gaining the *Tower*, did contrive, that 100 men under Capt. *Billingſly* ſhould be deſigned for that purpoſe, when the opportunity was offered.

To the end the City of *London* ſhould not be able to make any reſiſtance, when the ſaid Army ſhould come up, according to the forementioned Deſign; and *Suckling* by the Means and Plot aforeſaid, did thereby endeavour, that the Earl of *Strafford*, then Priſoner in the *Tower*, might the better incompaſs his eſcape.

That *Barkley* and *O-Neal* being queſtioned did fly for the ſame.

Barkley and *O-Neal* are fled Mr. *Pierce* charged with High Treaſon.

Reſolved, That upon the whole matter, Mr. *Pierce* ſhall be charged with High Treaſon, tqe like for *Jermin* and *Suckling*.

That 3000 *l.* of the Pole-money be paid to Col. *Goring*, for the uſe of the Garriſon of *Portſmouth*.

Reſolved, That Col. *Goring* in his Deſpoſitions concerning this Diſcovery, hath done nothing contrary to Juſtice and Honour, but hath therein deſerved very well of the Commons of this Houſe.

A Vote to vindicate Col. *Goring*.

Friday the 7*th* of *May*, the Lords paſſed the Bill of *Attainder*, as alſo the Bill for the Continuance of this preſent Parliament.

Bill of *Attainder*, and for continuance of the Parliament paſſed, Meſſage to the Lords to move the King for His Conſent to paſs the Bill of *Attainder*.

Saturday the 8*th* of *May*, Mr. *Hotham* was ſent with a Meſſage to the Houſe of Lords, to deſire their Lordſhips to joyn with them, to move His Majeſty for his Conſent to the Bill of *Attainder*, in regard, the peace of the Kingdom doth ſo much depend upon the Execution of taht Bill, which had paſſed both Houſes; and accordingly a certain number of the Houſe of Peers were ſent unto His Majeſty, to acquaint him therewith; and alſo with the Bill for the Continuance of this preſent Parliament.

The Houſe being informed, That Ships were ready to put to Sea, but that Mariners could not be got. It was the ſame day *Reſolved*, That a Bill ſhould be drawn to enable the Preſſing of Mariners for a certain time, the Houſe being very tender of bringing the way of Preſſing into example by a Law.

To preſs Mariners.

Sunday the 9*th* of *May*, the King called his Privy Council together at *Whitehall*, and propounded ſeveral ſcruples unto them concerning that Bill, ſome of the Judges and Biſhops were preſent alſo, to whom his Majeſty imparted his doubts, and had their opinions therein. In Fine, his Majeſty gave Order for a Commiſſion to impower the Earl of *Arundel*, the Lord privy Seal, and two other Lords, to give his Aſſent to the Bill, for the Execution of the Earl of *Strafford* upon *Wedneſday* following; as alſo to the other Bill for the Continuance of this preſent Parliament.

The King, Judges, and Biſhops conſult about *Strafford*. The King gives Warrant for a Commiſſion to give his Aſſent to the Bill for execution of the Earl of *Strafford*.

Monday the 10*th* of *May*, the Commiſſion paſſed the Great Seal accordingly, and the Commons were ſent for to the Houſe of Lords, to be preſent at the giving the Royal Aſſent to both thoſe Bills.

The Royal Aſſent given this day, and the Bill paſſed.

The King conſents that the Iriſh Army ſhould be inſtantly disbanded.

Thanks returned to His Majeſty.

The ſame day His Majeſty ſent a Meſſage to both Houſes, that the Iriſh Army ſhould be inſtantly disbanded, and that he would that night diſpatch an Expreſs for the expediting thereof.

It was hereupon moved, That Mr. Treaſurer be deſired by the Houſe of Commons to return their Humble thanks to his Majeſty, and to aſſure him, that they would make him as Glorious a Potentate, and as rich a Prince, as any of his Predeceſſors, His Majeſty, continuing ſtill to take the advice of his Great Council the Parliament along with him, in the management of the great affairs of the Kingdom.

The Earl of *Strafford* underſtanding that His Majeſty had paſſed the Bill did Humbly Petition the Houſe of Peers.

The Earl of *Strafford*'s Petition to the Houſe of Peers.

'SEEing it is the good Will and pleaſure of God, that your Petitioner 'is now ſhortly to pay that Duty which we all owe to our frail Na-'ture; he ſhall in all Chriſtian Patience and Charity, conform and ſubmit 'himſelf to your Juſtice, in a comfortable aſſurance of the great hope laid 'up for us, in the Mercy and Merits of our Saviour bleſſed for ever.

'Only he humbly craves to return your Lordſhips moſt Humble thanks 'for your Noble Compaſſion towards thoſe Innocent Children, whom 'now with his laſt bleſſing, he muſt commit to the protection of Almigh-'ty God, beſeeching your Lordſhips, to finiſh his pious intentions towards 'them, and deſiring that the reward thereof may be fulfilled in you, by 'him that is able to give above all we are able to ask or think; Wherein I 'truſt the Honourable Houſe of Commons will afford their Chriſtian 'Aſſiſtance.

'And ſo beſeeching your Lordſhips Charitably to forgive all his Omiſ-'ſions and Infirmites, he doth very heartily and truly recommend your 'Lordſhips to the Mercies of Our Heavenly Father, and that for his 'Goodneſs he may perfect you in every good Work, *Amen.*

THO. WENTWORTH.

The Bill of *Attainder.*

WHereas the Knights, Citizens, and Burgeſſes of the Houſe of Commons in this preſent Parliament Aſſembled, have in the name of themſelves, and of all the Commons of *England*, Impeached *Thomas* Earl of *Strafford* of High Treaſon, for endeavouring to ſubvert the Antient and Fundamental Laws and Government of his Majeſty's Realms of *England* and *Ireland*, and to introduce an Arbitrary and Tyrannical Government againſt Law in the ſaid Kingdoms and for exerciſing a Tyrannous and exorbitant Power over and againſt the Laws of the ſaid Kingdoms, and the Liberties, Eſtates, and Lives of His Majeſty Subjects; and likewiſe, having by his own Authority Commanded the Laying and Aſſeſſing of Soldiers upon His Majeſty's Subjects in *Ireland*, againſt their Conſents to compel them to obey his unlawful Summons and Orders made upon Paper-Petitions in Cauſes between Party and Party, which accordingly was executed upon divers of His Majeſty's Subjects in a Warlike manner, within the ſaid Realm of *Ireland*; and in ſo doing, did Levy War againſt the King's Majeſty and His Leige People in that Kingdom; And alſo for that he, upon the unhappy Diſſolution of the laſt Parliament, did ſlander the Houſe of Commons to His Majeſty, and did Council and Adviſe his Majeſty, That *he was looſe and abſolved from the Rule of Government, and*

that

that he had an Army in Ireland, *by which he might reduce this Kingdom*; for which he deſerves to undergo the Pains and Forfeitures of High Treaſon.

And the ſaid Earl hath been an Incendiary of the Wars between the two Kingdoms of *England* and *Scotland*; all which Offences have been ſufficiently proved againſt the ſaid Earl upon his Impeachment.

Be it therefore Enacted by the King's Moſt Excellent Majeſty, and by the Lords and Commons in this preſent Parliament aſſembled, and by the Authority of the ſame, that the ſaid Earl of *Strafford*, for the Heinous Crimes and Offences aforeſaid, ſtand, and be adjudged and attainted of High Treaſon, and ſhall ſuffer ſuch Pain of Death, and incur the Forfeitures of his Goods and Chattels, Lands, Tenements and Hereditaments of any Eſtate of Freehold, or Inheritance in the ſaid Kingdoms of *England* and *Ireland*, which the ſaid Earl, or any other to his uſe, or in truſt for him, have or had the day of the firſt ſitting of this Parliament, or at any time ſince.

* *Provided*, that no Judge or Judges, Juſtice or Juſtices whatſoever, ſhall adjudge or interpret any act or thing to be Treaſon, nor hear or determine any Treaſon in any other manner than he or they ſhould, or ought to have done before the making of this Act, and as if this Act had never been had or made; Saving always unto all and ſingular Perſons, Bodies Politick and Corporate, their Heirs and Succeſſors, others then the ſaid Earl and his Heirs, and ſuch as Claim from, by, or under him all ſuch Right Title and Intereſt of, in, and to all and ſingular ſuch of the ſaid Lands, Tenements and Hereditaments, as he, they, or any of them had before the firſt day of this preſent Parliament, any thing herein contained to the contrary notwithſtanding.

* This *Proviſo* hath occaſioned the common diſcourſe and opinion that this Judgment againſt the Earl was Enacted never to be drawn into Preſident.

Provided, That the paſſing of this preſent Act or His Majeſties Aſſent thereunto, ſhall not be any determination of this preſent Seſſions of Parliament; But that this preſent Seſſions of Parliament, and all Bills and Matters whatſoever depending in Parliament, and not fully Enacted or Determined, and all Statutes and Acts of Parliament, which have their continuance until the end of this preſent Seſſion of Parliament, ſhall remain, continue, and be in full force as if this Act had not been.

The day following, the King wrote this Letter to the Lords on the behalf of the Earl of *Strafford*, and ſent it by the Prince.

My Lords,

The King's *Letter* on behalf of the Earl of *Strafford*.

I *Did yeſterday ſatisfie the Juſtice of this Kingdom, by paſſing the Bill of Attainder againſt the Earl of* Strafford; *but Mercy being as inherent and inſeparable to a King as Juſtice, I deſire at this time in ſome meaſure to ſhew that likewiſe, by ſuffering that unfortunate Man to fulfil the Natural Courſe of his Life in a Cloſe Impriſonment; Yet ſo, if ever he make the leaſt offer to eſcape, or offer directly, or indirectly to meddle in any ſort of publick buſineſs, eſpecially with me, either by meſſage or Letter, it ſhall coſt him his Life without further Proceſs; This if it may be done without the Diſcontentment of my People, will be an unſpeakable Contentment to me; to which end, as in the firſt place, I by this Letter do earneſtly deſire your Approbation, and to endear it more, have choſen him to carry it, that of all your Houſe is moſt dear to me; So I deſire that by a Conference, you will endeavour to give the Houſe of Commons Contentment, aſſuring you that the Exerciſe of Mercy is no more pleaſing to me, than to ſee both Houſes of Parliament Conſent for my ſake, that I ſhould moderate the ſeverity of the Law in ſo important a Caſe.*

I will not ſay, that your Complying with me in this my intended Mercy, ſhall make me more Willing, but certainly 'twill make me more Chearful in Granting

ing your Juſt Grievances. But, if no leſs then his Life can ſatisfie my People, I muſt ſay, Fiat Juſtitia. *Thus again, recommending the Conſideration of my Intention to you, I reſt.*

Your unalterable and affectionate Friend,

Whitehall, 11*th of* May, 1641.

Charles R.

If he muſt die, it were Charity to Repriеve him till Saturday.

This Letter, all Written with the King's own Hand, and delivered by the Hand of the Prince, was twice Read in the Houſe, and after ſerious and ſad Conſideration, the Houſe reſolved preſently to ſend 12 of the Peers Meſſengers to the King, humbly to ſignifie, 'That neither of the Two Intentions expreſſed in the Letter, could, with duty in them, or without danger to Himſelf, his deareſt Conſort the Queen, and all the Young Princes their Children, poſſibly be Adviſed; all which being done accordingly, and the Reaſons ſhewed to His Majeſty, He ſuffered no more words to come from them: but out of the fulneſs of his Heart, to the obſervance of Juſtice, and for the Contentment of His People, told them, *That what He intended by His Letter was, with all* (if) *if it might be done without Diſcontentment of His People; if that cannot be, I ſay again, the ſame I Writ,* Fiat Juſtitia: *My other Intention proceeding out of Charity for a few days Reſpite, was upon certain Information, that his Eſtate was ſo diſtracted, that it neceſſarily required ſome few days for ſettlement thereof.*

Twelve Lords ſent to the King,

Whereunto the Lords *Anſwered*; 'Their purpoſe was to be Suitors to 'His Majeſty, for favour to be ſhewed to his Innocent Children; 'and if 'himſelf had made any proviſion for them, the ſame might hold.

This was well-liking unto His Majeſty, who thereupon departed from the Lords: At His Maieſty's parting they offered up into His Hands the Letter it ſelf which He had ſent; but he was pleaſed to ſay, *My Lords, What I have Written to you, I ſhall be content it be Regiſtred by you in your Houſe; in it you ſee my mind, I hope you will uſe it to my Honour.*

This, upon return of the Lords from the King was preſently Reported to the Houſe by the Lord Privy-Seal, and Ordered that theſe Lines ſhould go out with the King's Letter, if any Copies of the Letter were diſperſed.

Queen Mother

The Houſe being informed, That the Queen-Mother apprehended Her ſelf in ſome danger, by reaſon that divers words were ſcattered among the Tumultuous Aſſembly, as if they had ſome deſign upon Her Perſon, and thoſe Prieſts which ſhe had for Her own Houſhold, deſired a Guard for Her Security, Concluded, that as to the Security of Her own Perſon, they were bound in Honour not to ſuffer any Violence to be done unto Her and ſo referred it to a Committee, to Conſider what was fit to be done in order thereto: Which being Reported by Mr. *Henry Martin*, he declared, That the Committee had duely conſidered Her Majeſties juſt Fears, and therefore ſhould agree to all good ways and means, that might conduce to the ſafety of Her Perſon. But fearing that the ſaid means may notwithſtanding prove ineffectual for Her Protection, That therefore the Houſe would intreat the Lords to joyn with them, humbly to beſeech His Majeſty,

Majeſty, That the Queen Mother may be moved to depart the Kingdom, the rather for the Quieting of thoſe Jealouſies in the Hearts of His Majeſties well-affected Subjects, occaſioned by ſome ill Inſtrument about the ſaid Queens Perſon, by the flocking of Prieſts and Papiſts to Her Houſe, and by the Uſe and Practice of the Idolatry of the Maſs.

Wendeſday the 12th of *May*.

The Earl of *Strafford* brought to the Scaffold.

THe Earl of *Strafford* was brough from the Tower to the Scaffold upon *Tower-Hill*, where the Biſhop of *Armagh*, the Earl ot *Cleeveland*, Sir *George Wentworth*, Brother to the ſaid Earl of *Strafford*, and others of his Friends, were preſent, to take theirs Leaves of him. But before he fitted himſelf to Proſtrate his Body to Execution, he deſired patience of the People to here him ſpeak a few words, which the Auther took from his Mouth, being then there on the Scaffold with him, *viz.*

His Speech.

'MY Lord Primate of *Ireland*, and my Lords, and the reſt of theſe 'Noble Gentelmen, it is a great Comfort to me to have your 'Lordiſhps by me this day, becauſe I have been known to you a long time, 'and now I deſire to be heard a few words.

'I come here, my Lords, to pay my laſt Debt to Sin, which is Death; 'And through the Mercies of God to riſe again to Eternal Glory.

'My Lords, if I may uſe a few words, I ſhall take it as a great Curteſie from you; I come here to ſubmit to the Judgment that is paſſed 'againſt me; I do it with a very quiet and contented Mind; I do freely 'forgive all the World; a forgiveneſs not from the teeth outward (as 'as they ſay) but from my Heart; I ſpeak in the Preſence of Almighty God, 'before whom I ſtand, that there is not a diſpleaſing thought that ariſeth in me againſt any Man: I thank God I ſay truly, my Conſcience 'beares me Witneſs, that in all the Honour I had to ſerve His Majeſty, 'I had not any Intention in my Heart, but what did aime at the Joynt 'and Individual proſperity of the King and His People; although it be my 'ill hap to be miſconſtrued; I am not the firſt Man that hath ſuffered in 'this kind: It is a Common Portion that befalls men in this Life, Righteous Judgment that ſhall be hereafter; here we are ſubject to Error, and 'Misjudging one anoher.

'One thing I deſire to be heard in, and do hope, that for Chriſtian 'Charities ſake I ſhall be believed; I was ſo far from being againſt Parliaments, that I did always think Parliaments in *England* to be the happy Conſtitution of the Kingdom and Nation, and the beſt means, under God, to make the King and his People happy: As for my Death, I 'do here acquit all the World, and beſeech God to forgive them; In particular, I am very glad His Majeſty conceives me not meriting ſo ſevere 'and heavy a puniſhment, as the utmoſt Execution of this Sentence; I 'do infinitely rejoyce in it, and in that Mercy of His, and do beſeech 'God to return him the ſame, that he may find mercy when he hath moſt 'need of it. I wiſh this Kingdom all proſperity and happineſs in the 'World: I did it Living, and now Dying it is my wiſh.

'I profeſs heartly my apprehenſion, aud do humbly recommend it to 'you, and wiſh that every Man would lay his Hand on his Heart, and conſider ſeriouſly, Whether the beginning of the peoples Happineſs ſhould 'be Written in *Letters of Blood*? I fear they are in a Wrong way; I

'deſire

deſire Almighty God, that no one drop of my Blood riſe up in Judgment againſt them; I have but one word more, and that is for my Religion.

My Lord of *Armagh*, I do profeſs my ſelf ſeriouſly, faithfully and truly to be an obedient Son of the Church of *England*, In that Church I was born and bred, in that Religion I have lived, and now in that I die; Proſperity and Happineſs be ever to it.

It hath been ſaid I was inclined to Popery, if it be an Objection worth the anſwering, let me ſay truly from my Heart, that ſince I was Twenty one years of Age unto this day, going on 49 years, I never had thought or doubt of the truth of this Religion, nor had ever any the boldneſs to ſuggeſt to me the contrary, to my beſt remembrance.

And ſo being reconciled to the Mercies of Jeſus Chriſt my Saviour, into whoſe Boſom I hope ſhortly to be gathered, to enjoy Eternal Happineſs, which ſhall never have an end; I deſire heartily to be forgiven of every Man, If any raſh or unadviſed Words or Deeds have paſſed from me; and deſire all your Prayers; and ſo my Lord farewel; and farewel all things in this world.

The Lord ſtrengthen my Faith, and give me Confidence and Aſſurance in the Merits of Chriſt Jeſus; I truſt in God we ſhall all meet to live Eternally in Heaven, and receive the accompliſhment of all Happineſs, where every Tear ſhall be wiped from our Eyes, and ſad thoughts from our Hearts; And ſo God bleſs this Kingdom, and Jeſus have Mercy on my Soul.

Then turning himſelf about, he ſaluted all the Noblemen, and took a ſolemn leave of all conſiderable perſons on the Scaffold, giving them his Hand.

And after that he ſaid, Gentlemen, I would ſay my Prayers, and I intreat you all to pray with me, and for me: Then his Chaplain laid the Book of Common Prayer upon the Chair before him, as he kneeled down, on which he prayed almoſt a quarter of an hour, then he prayed as long or longer without a Book, and ended with the Lords Prayer: Then ſtanding up, he ſpied his Brother Sir *George Wentworth*, and called him to him, and ſaid, Brother, We muſt part, remmember me to my Siſter, and to my Wife, and carry my bleſſing to my Eldeſt Son, and charge him from me, that he fear God, and continue an obedient Son of the Church of *England*, and that he approve himſelf a faithful Subject to the King, and tell him, that he ſhould not have any private Grudge or Revenge towards any concerning me, and bid him beware to meddle not with Church Livings, for that will prove a Moth and Canker to him in his Eſtate, and wiſh him to content himſelf to be a Servant to his Country, as a Juſtice of Peace in his County, not aiming at higher preferments: Carry my Bleſſing alſo to my Daughter *Ann*, and *Arabella*, Charge them to fear and ſerve God, and he will bleſs them, not forgetting my little Infant, that knows neither good nor evil, and cannot ſpeak for it ſelf, God ſpeak for it, and bleſs it. Then ſaid he, I have nigh done; One ſtroak will make my Wife Huſbandleſs, my dear Children Fatherleſs, and my poor Servants Maſterleſs, and ſeperate me from my dear Brother, and all my Friends, but let God be to and them all in all.

After, that, going to take off his Doublet, and to make himſelf unready, he ſaid, I thank God I am no more afraid of Death, nor daunted with any diſcouragements ariſing from any fears, but do as chearfully put off my Doublet at this time, as ever I did when I went to Bed; Then

he

he put off his Doublet, and wound up his Hair with his Hands, and put on a white Cap.

Then he called, Where is the Man that ſhall do this laſt Office? (meaning the Executioner) call him to me; When he came and ask'd him forgiveneſs: He told him, he forgave him and all the World; then kneeling down by the Block, he went to Prayer again by himſelf, the Biſhop of *Armagh* kneeling on the one ſide, and the Miniſter on the other; to the which Miniſter after Prayer he turned himſelf, and ſpoke ſome few words ſoftly, having his hands lifted up, the Miniſter cloſed his hands with his; then bowing himſelf to the Earth, to lay down his Head on the Block, he told the Executioner, that he would firſt lay down his Head to try the fitneſs of the Block, and take it up again, before I lay it down for good and all, and ſo he did; and before he laid it down again, he told the Executioner, that he would give him warning when to ſtrike by ſtretching forth his hands, and then laid down his Neck on the Block, ſtretching out his hands, the Executioner ſtruck off his Head at one blow then took the Head up in his hand, and ſhewed it to all the People, and ſaid; *God Save the King.*

A Copy of the Paper containing the Heads of the Lord *Strafford*'s laſt Speech, written by his own Hand, as it was left upon the Scaffold.

1. I *Come to pay the laſt debt we ow to Sin.*
2. I *Riſe to Righteouſneſs.*
3. *Die willingly.*
4. *Forgive all.*
5. *Submit to what is Voted Juſtice but my Intentions Innocent from Subverting,* &c.
6. *Wiſhing nothing more than great Proſperity to King and People.*
7. *Acquit the King conſtrained.*
8. *Beſeech to Repent.*
9. *Strange way to write the beginning of Reformation, and Settlement of a Kingdom in Blood on themſelves.*
10. *Beſeech that Demand may reſt there.*
11. *Call not Blood on themſelves.*
12. *Die in the Faith of the Church.*
13. *Pray for it, and deſire their Prayers with me.*

GIve me leave here to add two pretty paſſages more: The firſt is when My Lord *Strafford*, the night before the day of Execution, had ſent for the Lieutenant of the Tower, and asked him, whether it was poſſible he might ſpeak with the Arch-Biſhop; the Lieutenant told him, he might not do it without Orders from the Parliament. Maſter Lieutenant (ſaid he) you ſhall hear what paſſeth betwixt us; it is not a time either for him to Plot Hereſie, or me to Plot Treaſon. The Lieutenant anſwered, that he was limitted, and therefore deſired his Lordſhip, that he would Petition the Parliament for that favour: No, (ſaid he) I have gotten my diſpatch from them, and will trouble them no more; I am now Peittioning an Higher Court, where neither Partiality can be expected, nor Error feared. But my Lord, ſaid he, (turning to the Primate of *Ireland* then preſent) what I ſhould have ſpoken to my Lord's Grace of *Canterbury*, is this, you ſhall deſire the Arch-Biſhop to lend me his Prayers this night, and to give me his Bleſſing when I go abroad to morrow, and to be in his Window, that by my laſt farewell, I may give him thanks for this, and all other his former Favours.

My Lord Primate having delivered the Meſſage without delay, the Arch-Biſhop reply'd, that in Conſcience he was bound for the Firſt, and in Duty and Obligation to the Second; but he feared his Weakneſs and Paſſion would not lend him Eyes to behold his laſt Departure.

The next Morning at his coming forth, he drew near to the Arch-Biſhop's Lodgings, and ſaid to the Lieutenant, Though I do not ſee the Arch-Biſhop, give me leave I pray you to do my laſt obſervance towards his Rooms; In the mean time, the Arch-Biſhop advertiſed of his Approach, came out to the Window, then the Earl bowing himſelf to the Ground, My Lord (ſaid he) *Your Prayers and your Bleſſing*; the Arch-Biſhop lift up his Hands and beſtowed both, but overcome with Grief, fell to the Ground *in Animi diliquio*; the Earl proceeding a little farther, bowed the ſecond time, ſaying, *Farewell my Lord, God protect your Innocency.*

The next is, When he was Marching to the Scaffold, more like a General at the Head of an Army, as many of the Spectators then ſaid, to breath Victory, than like a Condemned Man, to undergo the Sentence of Death; the Lieutenant deſired him to take Coach, for fear the People ſhould Ruſh in upon him and tear him in Pieces; No, (ſaid he) Maſter Lieutenant, I dare look Death in the Face, and I hope the People too; have you a care that I do not eſcape, and I care not how I die, whether by the hand of the Executioner, or the Madneſs and Fury of the People, if that may give them better content, it is all one to me.

He left theſe three Inſtructions for his Son in Writing.

Firſt, That he ſhould continue ſtill to be brought up under thoſe Governors to whom he had committed him, as being the beſt he could pick out of all thoſe within his knowledge, and that he ſhould not change them, unleſs they were weary of him; that he ſhould rather want himſelf, than they ſhould want any thing they could deſire.

Secondly, If his Prince ſhould call him to publick Service, he ſhould carefully undertake it, to teſtifie his Obedience, and withal, to be Faithful

full and ſincere to his Maſter, though he ſhould come to the ſame end that himſelf did.

Thirdly, That he foreſaw that Ruin was like to come upon the Revenues of the Church, and that perhaps they might be ſhared amongſt the Nobility and Gentry, but I charge you never to meddle with any of it, for the Curſe of God will follow all them that meddle with ſuch a thing, that tends to the Deſtruction of the moſt Apoſtolical Church upon Earth.

A Brief Account of ſome Interlocutory Paſſages in Parliament, in which my Lord of Strafford *ſo diſcovered his Wit and Temper, that the Court took particular notice of him.*

IN the Month of *September*, 1626. The King having ſpecial Occaſions, to be furniſhed with Money, ſuitable to the importance of his undertakings, for the Relief of the King of *Denmark*. His Majeſty came to this Reſolution, That the urgency of Affairs not admitting the way of Parliament, the moſt ſpeedy, equal, and convenient means were by a general Loan from the Subject, according as every Man was Aſſeſſed in the Rolls of the laſt Subſidy.

Upon which Reſult, the King forthwith choſe Commiſſioners for the Loan, and cauſed a Declaration to be publiſhed, wherein he alledged for this courſe of Supply, the Reaſons ſet down at large in his late Declaration, touching the Diſſolution of the Parliament 2° *Car.* adding farther, That the urgency of the occaſion would not give leave to the calling of a Parliament.

In the ſaid year 1526. Sir *Thomas Wentworth* having a Privie Seal ſent unto him about the Loan-Money, and to advance the ſum of 40 *l.* to the King, (he amongſt other things in the County of *York*) refuſed to lend the ſame, as being a Demand contrary to the Right and Property of the Subject, to part with their Money, but by conſent of Parliament.

The Non-Subſcribers of high Rank, and Rate in moſt Counties, were bound over by Recognizance, to tender their appearance at the Council Table, and divers of them were Committed to Priſon; but others alſo of Quality, were appointed to ſeveral Confinements, not in their own, but in remote Counties.

Sir *Thomas Wentworth* and *George Ratcliff* Eſq; (afterwards Sir *George*) were ſent by Meſſengers from the Council, and removed out of the County of *York* into the County of *Kent*, and there ſecured by Confinement, and during this Reſtraint and Confinement, a Parliament was called, which was to Meet, *March* 17. 3 *Car.* 1627.

In the Month of *July*, before the Calling of this Parliament, the Lord *Conway*, Secretary of State, brought a Meſſage from the King to Arch-biſhop *Abbot*, that it was his Majeſties pleaſure, he would withdraw from his Houſes at *Lambeth* and *Croydon*, and go to *Canterbury*, and reſide there.

What is my Fault (ſaid the Arch-Biſhop) that brings this Meſſage of Removal and Confinement upon me? Although (ſaid the Secretary) I have no Commiſſion to tell you, it is for a Book you would not Licence for the King's Service; and afterwards the Arch-Biſhop underſtood more particularly, that beſides that, it was becauſe Sir *Thomas Wentworth* made Reſort to the Arch-Biſhop's Houſe at times of Dinner and Supper.

As for Sir *Thomas Wentworth*, he had good occaſion to ſend unto me, and ſometimes to ſee me, becauſe we were joynt-Executors to Sir *George Savile*, who Married his Siſter, and was my Pupil at *Oxford*, to which Son alſo, Sir *Thomas Wentworth* and I were Guardians, as may appear in the *Cout of Wards*, and many things paſſed between us in that behalf; yet to my remembrance, I ſaw not this Gentleman but once theſe three quarters of a year laſt paſt, at which time he came to ſee his Brother-in-law the Lord *Clifford*, who was then at Dinner with me at *Lambeth*.

Saturday March, the 22th.

THe time of the Houſe was ſpent in opening the Grievances, and State of the Kingdom, as Billeting of Soldiers, Benevolencies, and Privy Seals, and the Impriſoning certain Gentlemen, who refuſed to lend upon that account, *&c.* Sir *Francis Seymor* ſpake firſt, and ſaid,

'THis is the great Council of the Kingdom, and here (if not here alone) His Majeſty may ſee, as in a true Glaſs, the State of the 'Kingdom, *&c.* We are called hither by His Majeſty's Writs, to give him 'faithful Counſel, ſuch as may ſtand with his Honour; but this we muſt 'do without Flattery, we are ſent hither by the Commons to diſcharge the 'Truſt repoſed in us, by delivering up their juſt Grievances, and this we 'muſt do without fear: Let us not therefore be like the *Cambyſes* Judges, 'who being demand of their King, Whether it were not Lawful for him 'to do what in it ſelf was Unlawful, they (rather to pleaſe the King than 'to diſcharge their own Conſciences) Anſwered, That the *Perſian* Kings 'might do what they liſted, *&c.* Flattery tends to Miſchief, being fitter 'for Reproof than Imitation, and as Flattery, ſo Fear taketh away the 'Judgment; let us not then be poſſeſſed with Fear or Flattery, of Cor-'ruptions the baſeſt: For my own part, I ſhall ſhun both of theſe, and 'ſpeak my Conſcience with as much Duty to His Majeſty as any Man, but 'not neglecting the Publick, in which his Majeſty and the Commonweal 'have an Intereſt: but how can we ſhew our Affections, whilſt we retain 'our Fears? or how can we think of giving Subſidies, till we know whe-'ther we have any thing to give or no? For if His Majeſty be perſwaded 'by any to take from his Subjects what he will, and where it pleaſeth him, 'I would gladly know what we have to give?

After Sir Francis Seymore *had ended his Speech, Sir* Thomas Wentworth *ſtood up and ſaid,*

'THis Debate carries a double Aſpect, towards the Sovereign and the Subject, though both be Innocent, both are Injured, and both 'to be cured: Surely in the greateſt Humility I ſpeak it, theſe Illegal ways 'are Puniſhments and Marks of Indignation, the raiſing of Loans ſtrength-'ned by Commiſſion, with unheard of Inſtructions and Oaths; the Billet-'ing of Souldiers by the Lieutenants, and Deputy-Lieutenants, have 'been as they could have perſwaded Chriſtian Princes, yea, Worlds, 'that the right of Empires, had been to take away by ſtrong Hands, 'and they have endeavoured as far as poſſible for them to do it: This hath 'not been done by the King (under the pleaſing ſhade of whoſe Crown 'I hope we ſhall ever gather the Fruits of Juſtice) but by Projectors, who

'have

'have extended the Prerogative of the King, beyond the juſt Symmetry, 'which maketh a ſweet Harmony of the whole: They have brought the 'Crown into greater want than ever, by anticipating the Revenues; and 'can the Shepherd be thus ſmitten, and the Sheep not ſcattered? They 'have introduced a Privy Council, Raviſhing at once the Spheres of all 'antient Government; Impriſoning us without Bail or Bound; they have 'taken from us, (what ſhall I ſay indeed, what have they left us?) all means 'of ſupplying the King, and ingratiating our ſelves with him, taking up 'the Root of all Propriety, which if it be not ſeaſonably ſet again into 'the ground by his Majeſties own hands, we ſhall have *inſtead of Beauty* '*Baldneſs*. To the making of thoſe whole, I ſhall apply my ſelf, and pro-'pound a Remedy to all theſe Diſeaſes: by one and the ſame thing have 'King and People been hurt, and by the ſame muſt they be cured; to vin-'dicate which, ſhall we propound new things? No, our antient vital *Liber-*'*ties* by enforcing the antient Laws made by our Anceſtors, by ſetting 'forth ſuch a Character of them, as no Licentious Spirit ſhall dare to enter 'upon them, will do the buſineſs; and ſhall we think this is a way to '*break a* Parliament? No, our deſires are Modeſt and Juſt, I ſpeak truly, '*both* for the Intereſt of the King and People; if we enjoy not theſe, it 'will be impoſſible for to relieve him.

'Therefore let us never fear, they ſhall not be accepted by his good-'neſs, wherefore I ſhall ſhortly deſcend to my Motions, conſiſting of four 'Parts, two of which have relation to our Perſons, two to the Propriety 'of Goods for our Perſons; Firſt, the Freedom of them, from employ-'ment abroad, contrary to the antient Cuſtoms: For our Goods, that no 'Levies be made, but by Parliaments. Secondly, no Billeting of Souldiers: 'It is moſt neceſſary, that theſe be reſolved, that the Subject may be ſecured 'in both.

Monday, March 24.

SEcretary *Cook* renewed the Motion of Supply for His Majeſty; yet ſo that Grievances be taken into Conſideration; We all think (ſaid he) that both theſe go hand in hand together: but let me put you in mind of that which concerns the King, let him have the precedency of Honour, if not of Time; let Heads of the King's Supply be firſt propounded: No King is more ready to hear the complaints of his Subjects; and withal, you know, no King is more ſenſible of all Reproaches which touch his Honour: Would it not be fit to grant him this Honour to have the Precedency, this will have good Aſpect abroad, it will prevent Diviſions at home, *&c.*

The firſt ſower of Seeds of Diſtractions amongſt us, was an Agent from *Spain* (*Gundemore*) that did his Maſter great Service here and at home; ſince that, we have other Miniſters that have blown the fire; the Ambaſſador of *France*, who told his Maſter at home, that he had wrought Diviſions here between King and People, and he was rewarded; whilſt we ſate here in Parliament, there was another intended Parliament within a mile of this place; this was diſcovered by Letters ſent to *Rome*, and the place of their Meeting is now changed; I deſire the meaneſt Judgment will conſider what will follow in giving precedency to his Majeſty; in ſo doing, we ſhall put from our ſelves many Imputations; This matter coming to no reſolution this day, Secretary *Cook* the next day tendred to the Houſe certain Propoſitions from the King, touching Supply, *viz.*

Wedneſday,

Wedneſday, March 26. 1628.

His Majeſties Propoſitions to the Houſe of Commons touching Supply.

THe Propoſitions tendred the day before by Secretary *Cook* from His Majeſty, were now Received and Read, but the Debate thereof was referred to another day: The Propoſitions are theſe, *viz.*

1. To Furniſh with Men and Victuals, Thirty Ships to guard the Narrow Seas, and along the Coaſts.

2. To Set out Ten other Ships for the Relief of the Town of *Rochelle.*

3. To Set out Ten other Ships for the Preſervation of the *Elbe,* the *Sound,* and *Baltick Sea,* &c.

See page) in the Firſt Part of *Hiſtorical Collections.*

Wedneſday, April 2. 4 *Car.* 1.

The Buſineſs of Confinement came into Debate in the Houſe of Commons, whereupon Sir *Francis Seymour* ſpake to this effect.

That it is ſaid, the greateſt Grievance is want of Supply, but I hold it a greater Grievance, that his Majeſty is brought into theſe neceſſities, eſpecially, conſidering the Supplies that of late have been given to the King, of two Subſidies in Parliament, beſides Privy Seals; and that the late Loan, whereby Five Subſidies were forcedly, and unadviſedly taken; that it is not then what the Subjects do give, unleſs his Majeſty do employ Men of Integrity and experience; otherwiſe, all that we give, will be as caſt into a bottomleſs Bag.

Upon this Occaſion Sir *Thomas Wentworth* ſtood up and ſpake as followeth;

'I Cannot forget that Duty I owe to my Country; unleſs we be ſecured 'as to our Liberties we cannot give: I ſpeak not this to make diverſi-'ons, but to the end, that giving, I may give chearfully, As for the 'Propoſitions made to induce us to give, and to be conſidered of, I in-'cline to decline them, and to look upon the State of our Country, whe-'ther it be fit to give or no. Are we come to an end for our Country's Li-'berties? Have we entrenched on the Right of the Deputy-Lieutenants? 'are we ſecured for time future?

Whereupon Mr. *Selden* ſpeaking alſo upon this occaſion of the Confinement of Sir *Thomas Wentworth,* &c. ſaid,

THat though Confinement is different from Impriſonment, yet it is againſt the Law that any ſhould be Confined to his Houſe or elſewhere. I know not what you can call a Puniſhment, but here is ſome grounds of it, or mention thereof in Acts of Parliament, Books of Records, but for this Confinement I find none; Indeed *Jews* have been Confined in former times to certain places, as here in *London* to the *Jewry,* now called the *Old Jury,* &c.

Hereupon

Hereupon Sir *Thomas Wentworth* ſpake briefly as to Sir *Peter Heymans* enforced employment beyond the Seas; that if any Man owes a Man a diſpleaſure, and ſhall procure him to be put into Foreign Employment, it will be a matter of high Concern in the Effect. We know the Honour and Juſtice of the King, but we know not what his Miniſters, or the Mediation of Ambaſſadors may do, to hold their own wrath upon any Man.

April 11. 4 *Car.* 1.

MR. Secretary *Cook* moved for expediting of Subſidies, and turning of the Votes into an Act (ſaying) We have Finally and Cheafully given the King Five ſubſidies, but no time is appointed, and ſubſidies without time is no Subſidy, let us appoint a time.

To which Sir *Dudley Diggs* ſpake thus; We have (ſaid he) freely concluded our Liberties; we have offered Five Subſidies, His Majeſty hath given us Gracious Anſwers, and nothing is done that the King can take notice of, *&c.*

'Hereupon Sir *Tho. Wentworth* propoſed a middle way, (*viz.*) That 'when we ſet down the time, be ſure the Subjects Liberties go hand in hand 'together with the King's Supply; then to reſolve of the time, but not 'Report it to the Houſe till we have a ground, and a Bill for our Liber-'ties; this is the way to come off fairly, and prevent Jealouſies; here-'upon the Committee of the whole Houſe Reſolved, That Grievances 'and Supply go hand in hand.

May 1. 4 *Car.*

MR. Secretary *Cook* delivered a Meſſage from his Majeſty, *viz.* To know whether the Houſe would relye on his Royal Word or no, declared to them by the Lord Keeper? which if they do, the King aſſured them it ſhould be Royally Performed.

Sir *Robert Philips* of *Somerſet-ſhire* ſpake upon this occaſion, and ſaid; That if the words of Kings ſtrike impreſſions in the hearts of Subjects, to ſpeak in a plain Language, ſaid he, We are now come to the end of our Journey, and the well diſpoſing of an Anſwer to this Meſſage, will give Happineſs or Miſery to this Kingdom; Let us ſet the Common-wealth of *England* before the Eyes of His Majeſty, that we may juſtifie to the World, that we have demeaned our ſelves, as dutiful Subjects to His Majeſty.

Hereupon Sir *Thomas Wentworth* ſtood up and concluded the Debate, ſaying,

'That never Houſe of Parliament truſted more in the goodneſs of their 'King, for their own private, than the preſent; but we are Ambitious, 'that His Majeſty's goodneſs may remain to Poſterity, and we are ac-'countable to Publick Truſt, and therefore ſeeing there hath been a Pub-'lick Violation of the Laws by his Miniſters, nothing will ſatisfie him 'but a Publick Mends; and to our deſire vindicate the Subjects Rights 'by Bill, is no more than is laid down in former Laws, with ſome mo-'deſt Proviſion for Reſtriction, Performance, and Execution; and this ſo

'well

'well agreed with the ſenſe of the Houſe, that they made it the ſubject 'of a Meſſage to be delivered by the Speaker to his Majeſty.

Whilſt the Lords afterwards were in debate of the *Petition of Right*, they were pleaſed at a Conference to propoſe to the Commons, this following addition to the *Petition of Right*, *viz.*

1. We preſent this our humble Petition to your Majeſty, with the care, not only of preſerving our own Liberties, but with due regard to leave intire the Sovereign Power, wherewith your Majeſty is entruſted for the Protection, Safety, and Happineſs of the People.

Upon this, Sir *Edward Cook* ſpake, ſaying, This is *Magnum in Parvo*, This is propounded to be a concluſion of our Petition; it is a matter of great weight, and to ſpeak plainly, it will overthrow all our Petition, trenches on all parts of it. Look into the Petitions of former times they never Petitioned, wherein there was a ſaving of the Kings Sovereignty; I know the Prerogative is part of the Law, but Sovereign Power is no Parliamentary word, *&c.*

Sir *Thomas Wentworth* ſpake next, and ſaid,

'IF we do admit of this Addition, we ſhall leave the Subjects worſe than 'we found them, and we ſhall have little thanks for our Labour when 'we come home; let us leave all our Power to His Majeſty to puniſh Ma-'lefactors, but theſe Laws are not acquainted with Sovereign Power, we 'deſire no new thing, nor do we offer to trench upon his Majeſties Prero-'gative, we may not recede from the Petition, neither in part or in whole; 'to add a ſaving is not ſafe, doubtful words may beget an ill conſtructi-'on, and the words are not only doubtful words, but words unknown to 'us, and never asked in one Act or Petition before.

2. Now he began to be more generally taken notice of by all men, and his Fame to ſpread abroad, where publick Affairs, and the Criticiſms of the Times were diſcourſed by the moſt refined Judgments; thoſe who were infected with Popularity, flattering themſelves, that he was inclined to ſupport their inclination, and would prove a Champion upon that account; but ſuch diſcourſe, as it endeared him to his Countrey, ſo it begot to him an Intereſt in the Boſom of his Prince, who, (having a diſcerning Judgment of men, quickly made his obſervation of *Wentworth*, that he was a Perſon framed for great affairs, and fit to be near his Royal Perſon and Councils.

About this time, the heat of ſo general a Report of him; Sir *Richard Weſton*, then Lord High Treaſurer after Earl of *Portland*, a Perſon alſo eminent for his acute and clear parts, coveted acquaintance with this Gentleman; and there not being wanting diſcreet Agents to accompliſh what my Lord Treaſurer deſired, it was ſoon effected. After the firſt view a familiarity was begotten, and next a deep friendſhip. It hapned, that in ſome conferences, they touched upon the popular Humour (as they term'd it) then appearing in the Houſe of Commons, and the preſent ways they were in as tending to no good, he propoſed the moſt rational and plauſible mediations that could be, for the preſent juncture of Affairs, inſomuch, that his Judgment in things was much valued and followed.

In ſome time after he was made Baron *Wentworth*, and had ſo gained His Majeſties Opinion, that he was alſo created Viſcount *Wentworth* of

Wentworth

Wentworth-Woodhouſe, made one of his Majeſties Privy Council, Lord-Lieutenant of the County of *York*, and Lord-Preſident of the *North*: In this Truſt he governed himſelf with ſuch skill, eſpecially in thoſe high conteſted points then in conſultation, that he pleaſed his Prince, and improved his Majeſties Revenue.

His frequent appearance at the Council-Board, quickly gave occaſion to that Great Prelate Archbiſhop *Laud* (then Biſhop of *London*) and himſelf, to diſcern one anothers parts, begetting a right underſtanding betwixt them, which grew into ſo inviolable a friendſhip, that nothing but the inevitable ſtroke of death could ſeparate them, who, whilſt they lived, conſtantly united their great Hearts and Underſtandings, for the advancing the Church, and the ſervice of their Prince.

The Cedar was ſtill growing, though perhaps, to the diſlike of ſome Emulators, yet to the general ſatisfaction of all ſuch as had ability enough to judge of his Parts.

His next advance was to be Lord-Deputy, and Chief Governor of *Ireland*: The Affairs of that Realm being in much diſorder by the temper of the Popiſh Party there, who did not with moderation, make uſe of the King's Clemency to them, in relaxation of the rigor of ſome penal Statutes.

He began with the Church, in the Reformation of his Kingdom, and firſt procured of the King, by the joynt mediation of the Archbiſhop, That all the Impropriations then in the Crown, would be reſtored to the Church in that Nation, though to ſome diminution of the Royal Revenue, and advanced Learned men, whoſe Judgments were for Epiſcopacy.

He raiſed in *Ireland* Eight Regiments for the King's ſervice, each conſiſting of 1000 Men, in Ten Companies, beſides Two more, which he intended to be raiſed in the neareſt part of *Wales*.

Before this Army already raiſed, was diſperſed into their ſeveral Quarters, all which were in the Province of *Ulſter*, near the Sea, in ſight of *Scotland*, the Lord-Lieutenant returned into *England* by his Majeſties Command, where an Army-Royal was levied, in oppoſition to the Scotiſh deſign, leaving an honourable Perſon Mr. *Chriſtopher Wandesford*, Maſter of the Rolls, Lord-Deputy; the Command of General of that Royal Army in *England*, was given to the Earl of *Northumberland*, then Lord-Admiral of *England*, upon whoſe ſickneſs the Earl of *Strafford* was made Lieutenant-General, who having undertaken the Command of this Army, ſignified by Letter from *Dublin* to the Archbiſhop *Laud*, that he durſt venture (upon peril of his Head) to drive the Scots out of *England*, but that he did not hold it proper, as the Caſe then ſtood for him to adviſe that courſe; but if any of the Lords would adviſe the King to try his fortune in Battle, he doubted not of ſending them home in more haſte than they came; but this ſeverity and indiſcretion of his againſt that Kingdom when things were ripe, did much haſten his ruine and deſtruction, as may be ſeen by the following Impeachment.

The Charge of the Scotiſh Commiſſioners againſt Thomas *Earl of* Strafford.

The Charge of the Scotch Commiſſioners preſented to the Parliament.

IN our Declaration we have joyned with *Canterbury*, the Lord-Lieutenant of *Ireland*, whoſe Malice hath ſet all his Wits and Power on work, to deviſe, and do miſchief againſt our Kirk and Country. No other Cauſe of his Malice can we conceive, but, Firſt his Pride and Su-

percilious diſdain of the Kirk of *Scotland*, which in his opinion, declared by his Speeches, hath not in it almoſt any thing of a Kirk, although the Reformed Kirks, and many worthy Divines of *England*, have given ample teſtimony to the Reformation of the Kirk of *Scotland*.

Secondly, Our open oppoſition againſt the dangerons Innovation of Religion intended, and very far promoted in all his Majeſties Dominions, of which he hath ſhewed himſelf in his own way, no leſs zealous than *Canterbury* himſelf, as may appear by advancing of his Chaplain, Dr. *Bramhal*, not only to the Biſhoprick of *Derry*, but alſo to be Vicar-General of *Ireland*; a Man prompted for exalting of Canterburian Popery, and Arminianiſm, that thus himſelf might have the power of both Swords, againſt all that ſhould maintain the Reformation, by his bringing of Dr. *Chappel*, a Man of the ſame Spirit, to the Univerſity of *Dublin*, for poiſoning the Fountains, and corrupting the Seminaries of the Kirk.

Thirdly, When the Primate of *Ireland* did preſs a new ratification of the Articles of that Kirk in Parliament, for barring ſuch Novations in Religion, he boldly menaced him with the burning by the hand of the Hangman, all of that Confeſſion, although confirmed in former Parliaments.

When he found that the Reformation began in *Scotland* did ſtand in his way, he left no means unaſſaied to rub diſgrace upon us, and our Cauſe. The Pieces printed at *Dublin*, *viz.* *Examen conjurationis Stotianæ*, the *Ungirding of the Scotiſh Armor*: and the Pamphlet, bearing the Counterfeit name of *Liſimachus Nicanor*, all three ſo full of Calumnies, Slanders, Scurrilities againſt our Country, and Reformation, that the Jeſuits in their greateſt ſpite, could not have ſaid more, yet not only the Authors were countenanced and rewarded by him, but the Books muſt bear his Name, as the great Patron both of Work and Workman.

When the National Oath and Covenant warranted by our General Aſſemblies, were approved by Parliament, in the Articles ſubſcribed in the King's Name, by His Majeſties High Commiſſioner, and by the Lords of the Privy Council, and commanded to be ſworn by His Majeſties Subjects of all Ranks, and particularly, and plenary Information was given unto the Lieutenant, by Men of ſuch quality, as he ought to have believed of the Loyalty of our Hearts to the King, of the lawfulneſs of our Proceedings, and innocency of our Covenant, and whole Courſe, that he could have no excuſe: yet his deſperate malice made him to bend his Craft and Cruelty, his Fraud and Forces againſt us. For firſt, he did craftily call up to *Dublin* ſome of our Country-men, both of the Nobility and Gentry, living in *Ireland*, ſhewing them that the King would conceive, and account them as Conſpirers with the Scots in their rebellious Courſes, except ſome remedy were provided; and for remedy, ſuggeſting his own wicked invention, to preſent unto him, and his own wicked invention, to preſent unto him and his own wicked Council, a Petition, which he cauſed to be framed by the Biſhop of *Rapho*, and was ſeen and corrected by himſelf, wherein they petitioned to have an Oath given them, containing a formal renunciation of the Scotiſh Covenant, and a deep aſſurance, never ſo much as to proteſt againſt any of his Majeſties Commandments whatſoever.

No ſooner was this Oath thus craftily contrived, but in all haſte it is ſent to ſuch places of the Kingdom, where our Country-men had reſi-

dence;

dence; and Men, Women, and all other Perſons above the years of Sixteen, conſtrained either preſently to take the Oath, and thereby renounce their National Covenant, as Seditious and Traiterous, or with violence and cruelty to be haled to the Jail, Fined above the value of their Eſtates, and to be kept cloſe Priſoners, and ſo far as we know, ſome are yet kept in Priſon, both Men and Women of good quality, for not renouncing that Oath which they had taken Forty years ſince, in the obedience to the King, who then lived. Beſides, a Cruelty enſued, which may parallel the Perſecutions of the moſt unchriſtian time: for weak Women dragged to the Bench to take the Oath, died in the place both Mother and Child, hundreds driven to hide themſelves, till in the darkneſs of the Night they might eſcape by Sea into *Scotland*, whither thouſands of them did flye, being forced to leave Corn, Cattle, Houſes, and all they poſſeſſed, to be a prey to their perſecuting Enemies, the Lieutenants Officers. And ſome Indicted and Declared guilty of High Treaſon, for no other guiltineſs, but for ſubſcribing our National Oath, which was not only impiety and injuſtice in it ſelf, and an utter undoing of His Majeſties Subjects, but was a weakning of the Scotch Plantation, to the prejudice of that Kingdom, and His Majeſties Service, and was a high Scandal againſt the King's Honor, and intolerable abuſe to His Majeſties Truſt and Authority, His Majeſties Commiſſion, which was procured by the Lieutenant, bearing no other penalty, than a certification of Noting the Names of the Refuſers of the Oath.

But this his reſtleſs Rage, and inſatiable Cruelty againſt our Religion and Country, could not reſt here, nor be kept within the bounds of *Ireland*, but proceeded further, ſo that by this means a Parliament is called, and although by the Six Subſidies granted in Parliament not long before, and by the baſe means which himſelf and his Officers did uſe (as is contained in a late Remonſtrance) that Land was extreamly impoveriſhed, yet by his Speeches full of Oaths and Aſſeverations, that we were Traitors and Rebels, caſting off all Monarchical Government, *&c.* He extorted from them four new Subſidies, *& indicta cauſa*, before we were heard, procured that a War was undertaken, and Forces ſhould be levied againſt us, as a rebellious Nation, which was alſo intended to be an example and precedent to the Parliament of *England*, for granting Subſidies, and ſending a joynt Army for our utter ruine.

According to his appointment in Parliament, the Army was gathered, and brought down to the Coaſt, threatning a daily Invaſion of our Country, intending to make us a conquered Province, and to deſtroy our Religion, Liberties and Laws, and thereby laying upon us, a Neceſſity of vaſt charges, to keep Forces on Foot on the Weſt Coaſt, to wait upon his coming.

And as the War was denounced, and Forces levied before we were heard; So before the denouncing of the War, our Ships and Goods on the Iriſh Coaſt were taken, and the owners caſt in Priſon, and ſome of them in Irons. Frigats were ſent forth to ſcour our Coaſts, by which they did take ſome, and burn others of our Barques.

Having thus incited the Kingdom of *Ireland*, and put his Forces in order there againſt us, with all haſte he cometh to *England*.

In his parting, at the giving up of the Sword, he openly avowed our utter ruine and deſolation, in theſe or the like words, *If I return to that Honourable Sword, I ſhall leave of the Scots neither root nor branch.*

How ſoon he cometh to Court, as before he had done very evil Office againſt our Commiſſioners, clearing our proceedings before the point; So now he uſeth all means to ſtir up the King and Parliament againſt us, and to move them to a preſent War, according to the precedent, and example of his own making in the Parliament of *Ireland*. And finding that his hopes failed him, and his deſigns ſucceeded not that way, in his nimbleneſs he taketh another courſe, that the Parliament of *England* may be broken up, and deſpiſing their Wiſdom and Authority, not only with great gladneſs accepteth, but uſeth all means that the conduct of the Army in the Expedition againſt *Scotland*, may be put upon him; which accordingly he obtaineth as General Captain, with power to invade, kill, ſlay, and ſave at his diſcretion, and to make any one or more Deputies in his ſtead, to do, and execute all the Power and Authorities committed to him.

According to the largeneſs of his Commiſſion, and Letters Patents of his deviſing, ſo were his deportments afterwards; for when the Scots, (according to their Declarations ſent before them) were coming in a peaceable way, far from any intention to invade any of His Majeſties Subjects, and ſtill to ſupplicate his Majeſty for a ſettled Peace, he gave order to his Officers to fight with them on the way, that the two Nations once entred in Blood, whatſoever ſhould be the ſucceſs, he might eſcape Trial, and cenſure, and his bloody deſigns might be put in execution againſt his Majeſties Subjects of both Kingdoms.

When the Kings Majeſty was again enclined to hearken to our Petitions, and to compoſe our differences in a peaceable way, and the Peers of *England* convened at *York*, had, as before, in their great wiſdom and faithfulneſs, given unto his Majeſty Counſels of Peace, yet this Firebrand ſtill ſmoaketh, and in that Honourably Aſſembly, taketh upon him to breathe out threatnings againſt us as Traitors, and enemies to Monarchical Government; and threatned that we be ſent home again in our blood, and he will whip us out of *England*.

And as theſe were his Speeches in the time of the Treaty appointed by His Majeſty at *Rippon*, that if it had been poſſible, it might have been broken up. So when a ceſſation of Arms was happily agreed upon there, yet he ceaſeth not, but ſtill his practiſes were for War; his under-Officers can tell who it was that gave them Commiſſion to draw near in Arms beyond the *Teeſe*, in the time of the Treaty at *Rippon*.

The Governor of *Berwick* and *Carliſle* can ſhew from whom they had their Warrants for their Acts of Hoſtility, after the Ceſſation was concluded. It may be tried how it cometh to paſs, that the Ports of *Ireland* are yet cloſed, our Country-men for the Oath ſtill kept in Priſon, Traffick interrupted, and no other face of Affairs, than if no Ceſſation had been agreed upon.

We therefore deſire, that your Lordſhips will repreſent to the Parliament, that this great Incendiary upon theſe and the like Offences, not againſt particular Perſons, but againſt Kingdoms and Nations, may be put to a Trial, and from their known and renowned Juſtice, may have his deſerved puniſhment.

The deſcription of his Perſon and Family.

THis Noble Earl was in perſon of a tall ſtature, ſomething inclining to ſtooping in his Shoulders, his Hair black and thick, which he wore ſhort, his Countenance of a grave well compoſed Symetry, and good Features, only in his Forehead he expreſt more Severity than Affability yet a very courteous Perſon.

And

And as he went from the *Tower* to the Scaffold, his Countenance was in a Mild posture, between dejection in contrition for Sin, and a high Courage, without perceiving the leaſt affectation of diſguiſe in him.

He ſaluted the People as he walked on foot from the *Tower* to the Scaffold, often putting off his Hat unto them, ſometimes to the right, and ſometimes to the left hand, being apparalled in a Black cloth Suit, having white Gloves on his Hands.

And tho' at this time there were gathered together on the great open place on *Tower-Hill*, where the Scaffold ſtood, a numerous croud of People, ſtanding as thick as they could by one another, over all that great Hill; inſomuch, as by the modeſt computation, they could not be eſteemed to be leſs than 100000 People; yet as he went to the Scaffold, they uttered no reproachful or reflecting Language upon him.

He had Three Wives, the Firſt the Lady *Margaret Clifford*, Siſter to the Earl of *Cumberland*, who left no Iſſue. The Second, the Lady *Arabella Hollis*, Siſter to the Earl of *Clare*, who left him his only Son *William*, now Earl of *Strafford*, and Two Daughters. The Third Wife, was Daughter to Sir *Francis Rhodes* of *Yorkſhire*, by whom he had one Daughter, an Infant at the time of his death.

On the Firſt of *December* in the 17*th* year of the King's Reign, by his Majeſties Letters Patents, his Son *William* was reſtored to all his Father's Dignities and Titles, and was made Knight of the moſt Noble Order of the Garter, having doubled his Paternal Glories and his own, by marrying the worthy Daughter of two incomparable Parents, *Henrietta Maria*, the Daughter of *James* Earl of *Darby*, and *Charlotte*, Daughter of *Claude*, Duke *de Temoille* and *Charlotte* of *Naſſaw*, Daughter to *William*, Prince of *Orange*.

A brief Account of his Secretary Slingsby.

MR. *Slinsby* his Secretary, after the death of this Noble Lord, preſently left the Kingdom, and was received beyond the Seas into the Queens favour, and by Her Majeſty deſigned Secretary to the Prince of *Wales* (now our Gracious Sovereign) but in his zeal to the King's Service, and to enable himſelf to attend her Majeſty upon her Landing, he tranſported himſelf into *Cleveland*, where he had but a ſmall Eſtate, but ſo much a bigger Intereſt, that in a very ſhort time, he levied Eight hundred Foot, and Eighty Horſe, with intention to make up a full Regiment, and Troop to wait upon the Queen.

He made his Quarters at *Gisborough* in *Cleveland*, but before the Foot were diſciplined in the uſe of Arms, he was attacqued by Sir *Hugh Cholmley* with 1500 Horſe and Foot, and ſome Braſs Drakes, Mr. *Slinsby* (who was wholly educated in Civil Affairs, never in the active Military part) having timely notice of his Adverſaries approach, thought not of any retreat, but addreſſes himſelf and party immediately, to draw out and fight the Enemy, notwithſtanding the inequality in number. At firſt his charge Mr *Slinsby* (having ſeaſoned old Soldiers in his Troop, which he brought out of *Holland*) worſted their Horſe, and had ſome purſuit and execution, but being allarmed behind, by the noiſe of an engagement, betwixt the Bodies of Foot, found his Regiment totally diſſipated, beyond all hopes of rallying; whereupon he employed his Courage upon the Enemies Foot, in which Charge his Horſe fell, and himſelf wounded with many Caſe-ſhot, and became Priſoner.

The

The relation of Blood moved Sir *Hugh Cholmley* to a generous regard and care of him, he was carried back to *Gisborough*, where (in order to the ſaving of his life) both his Legs were cut off above the knee after which he lived three days.

The Lady *Slingsby* his diſconſolate Mother, haſtened from *York* (betwixt hopes of Life and fear of Death) to *Gisborough*, where ſhe found the late hopes of her Family, and ſupport of her age lying dead; and Sir *Hugh* was as much concerned as his Parent, for the loſs of ſo accompliſhed a Gentleman.

Mr. *Slingsby*'s Interment.

His Body was carried to *York*, and there with very Honourable Solemnities interred in the Cathedral Church, after a Sermon preached by Dr. *Bramhall*, then Biſhop of *London-derry*, and late Primate of *Ireland*, who had a large experience of him.

His Extraction and Education.

He was eldeſt Son of Sir *Guilford Slingsby*, of the Family of *Screuen*, and *Red-Houſe*, in the County of *York*; his Fathers Eſtate did lye in *Cleveland* in the ſaid County; he was Educated firſt at the Univerſity at St. *Andrews* in *Scotland*, and afterwards ſtudied ſome years in the Univerſity of *Oxford*.

Sir *Guilford* his Father dying, the Earl of *Strafford* received this Gentleman in his Retinue, among other young Gentlemen of Quality, upon his going firſt into *Ireland*, where his Deportment, after ſome time, made his Lord to promote him to be Secretary, and afterwards Lieutenant of the Ordinance, and Vice-Admiral of *Munſter*. Laſtly, His Lord made choice of him before all others, to ſtand by him, and manage all his Papers, during his Confinement and Trial; And immediatly after the Bill of Attainder did paſs both Houſes, the Earl wrote this enſuing Letter unto him.

A Letter ſent from the Earl of Strafford *to his Secretary* Guilford Slingsby, *Eſq; after the paſſing of the Bill of Attainder, under his own Hand.*

I Would not, as the Caſe now ſtands, for any thing, you ſhould endanger your ſelf, being a perſon in whom I ſhall put a great part of my future Truſt; and therefore in any caſe abſent your ſelf for a time, yet ſo, as I may know where you are, and therefore ſend your man back, that I may know whither to direct any thing I have to impart to you, and that preſently, and after that, let your man come as little about this place as may be: your going to the King is to no purpoſe, I am loſt, my Body is theirs, but my Soul is Gods; there is little truſt in man, God may yet (if it pleaſe him) deliver me, and as I ſhall (in the beſt way he ſhall enable me unto) prepare my ſelf for him, ſo to him I ſubmit all I have. The perſon you were laſt withal at Court, ſent to move that buſineſs we reſolved upon, which if rightly handled, might perchance do ſomething; but you know my opinion in all, and what my belief is in all theſe things; I ſhould by any means adviſe you to abſent your ſelf, albeit never ſo innocent, as you are, till you ſee what becomes of me; if I live, there will be no danger for you to ſtay, but otherwiſe keep out of the way till I be forgotten, and then your return may be with ſafety. I mean indeed to leave you one in truſt for my Children, and thank you for your readineſs to look after it.

Tim

Time is precious, and mine I expect to be very ſhort, and therefore no part of it to be loſt. God direct and proſper you in all your ways; and remember there was a perſon whom you were content to call Maſter, that did very much value and eſteem you, and carrid to his death a great ſtock of his affection for you, as for all your ſervices, ſo for this your care towards me all this time of my Trial and Affliction; and however it be my misfortune to be decried at preſent, yet in more equal times, my Friends (I truſt) ſhall not be aſhamed to mention the Love to their Children, for their Father's ſake.

Your Affectionate Friend,

STRAFFORD

The Reflections of King CHARLES *the* I. *upon the Earl of* Strafford's *Death.*

I Looked upon my Lord of *Strafford* as a Gentleman, whoſe great Abilities might make a Prince rather afraid, than aſhamed to imploy him, in the greateſt Affairs of State.

For thoſe were prone to create in him great confidence of Undertakings, and this was like enough to betray him to great Errors, and many Enemies: whereof he could not but contract good ſtore, while moving in ſo high a Sphear, and with ſo vigorous a Luſtre, he muſt needs (as the Sun) raiſe many envious Exhalations, which condenſed by a *Popular odium*, were capable to caſt a Cloud upon the brighteſt Merit and Integrity.

Though I cannot in my Judgment approve all he did, driven (it may be) by the Neceſſities of Times, and the Temper of that People, more than led by his own Diſpoſition to any height and rigor of Actions: yet I could never be convinced of any ſuch Criminouſneſs in him, as willingly to expoſe his Life to the ſtroke of Juſtice and Malice of his Enemies.

I never met with a more unhappy conjuncture of Affairs, than in the buſineſs of that unfortunate Earl; when between my own unſatisfiedneſs in Conſcience, and a neceſſity (as ſome told me) of ſatisfying the importunities of ſome People; I was perſwaded by thoſe, that I think wiſhed me well, to chuſe rather what was ſafe, than what ſeemed juſt: preferring the outward Peace of my Kingdoms with Men, before that inward exactneſs of Conſcience before God.

And indeed, I am ſo far from excuſing or denying the Compliance on my part (for plenary conſent it was not) to his deſtruction, (whom in my Judgment I thought not, by any clear Law guilty of death) that I never did bear any touch of Conſcience with greater regret: which, as a ſign of my Repentance, I have often with ſorrow confeſſed, both to God and Men

Men, as an act of ſo ſinful frailty, that it diſcovered more a fear of man than of God, whoſe Name and Place on Earth no man is worthy to bear, who will avoid Inconveniencies of State, by Acts of ſo high Injuſtice, as no publick convenience can expiate or compenſate.

I ſee it a bad exchange to wound a Man's own Conſcience, thereby to ſalve State ſores; to calm the ſtorms of Popular Diſcontents, by ſtirring up a Tempeſt in a Man's own boſom.

Nor hath God's Juſtice failed in the event and ſad conſequences, to ſhew the World the fallacy of that Maxim, *Better one Man periſh (though unjuſtly) than the People be diſpleaſed or deſtroyed.*

For, in all likelyhood, I could never have ſuffered with my People, greater Calamities (yet with greater comfort) had I vindicated *Strafford's* Innocency, at leaſt by denying to ſign that deſtructive Bill, according to that Juſtice which my Conſcience ſuggeſted to me, then I have done ſince I gratified ſome Mens unthankful Importunities with ſo cruel a Favour; and I have obſerved, that thoſe, who counſell'd me to ſign that Bill, have been ſo far from receiving the rewards of ſuch Ingratiatings with the People, that no men have been haraſſed and cruſhed more than they: he only hath been leaſt vexed by them, who counſelled me, not to conſent againſt the Vote of my own Conſcience; I hope God hath forgiven me and them the ſinful raſhneſs of that buſineſs.

To which, being in my Soul ſo fully conſcious, thoſe Judgments God hath pleaſed to ſend upon me, are ſo much the more welcome, as a means (I hope) which his mercy hath ſanctified ſo to me, as to make me repent of that unjuſt Act (for ſo it was to me) and for the future to teach me, that the beſt rule of policy is to prefer the doing of Juſtice before all Enjoyments, and the Peace of my Conſcience, before the Preſervation of my Kingdoms.

Nor hath any thing more fortified my Reſolutions, againſt all thoſe violent Importunities, which ſince have fought to gain a like conſent from me, to Acts, wherein my Conſcience is unſatisfied, than the ſharp touches I have had for what paſſed me, in my Lord of *Strafford's* buſineſs.

Not that I reſolved to have employed him in my Affairs, againſt the advice of my Parliament; but I would not have had any hand in his death, of whoſe guiltineſs I was better aſſured, than any man living could be.

Nor were the Crimes objected againſt him ſo clear, as after a long and fair hearing, to give a convincing ſatisfaction to the major part of both Houſes; eſpecially that of the Lords, of whom ſcarce a third part were preſent, when the Bill paſſed that Houſe: And for the Houſe of Commons, many Gentlemen diſpoſed enough to diminiſh my Lord of *Strafford's* Greatneſs and Power, yet unſatisfied of his Guilt in Law, durſt not condemn him to dye: who for their integrity in their Votes, were, by poſting their Names, expoſed to the popular Calumny, Hatred, and Fury, which grew then ſo exorbitant in their Clamors for *Juſtice*, (That is, to have both my Self, and the Two Houſes Vote, and do as they would have us) that many ('tis thought) were rather terrified to concur with the condemning party, than ſatisfied, that of right they ought ſo to do.

And that after Act, vacating the Authority of the precedent, for future imitation, ſufficiently tells the World, that ſome remorſe touched even his

moſt

moſt implacable Enemies, as knowing he had very hard meaſure, and ſuch as they would be very loath ſhould be repeated to themſelves.

This tenderneſs and regret I find in my Soul, for having had any hand (and that very unwillingly, God knows) in ſhedding one Man's Blood unjuſtly, (though under the Colour and Formalities of Juſtice and Pretences of avoiding Publick Miſchiefs) which may, I hope, be ſome Evidence before God and Man, to all Poſterity, that I am far from bearing juſtly, the vaſt Load and Guilt of all that Blood which hath been ſhed in this Unhappy War; which ſome Men will needs Charge upon me, to eaſe their own Souls, whereas, and ever ſhall be more afraid, to take away any Man's Life Unjuſtly, than to looſe my own.

An ACT for Reverſing the Earl of Strafford's Attainder.

WHereas Thomas late Earl of Strafford, was Impeached of High Treaſon, upon pretence of endeavouring to Subvert the Fundamental Laws, and called to a Publick and Solemn Arraignment, and Trial before the Peers in Parliament, where he made a particular Defence to every Article objected againſt him; inſomuch that the turbulent party then ſeeing no hopes to effect their unjuſt Deſigns, by any ordinary way and method of proceedings, did at laſt reſolve to attempt the Deſtruction and Attainder of the ſaid Earl, by an Act of Parliament, to be therefore purpoſely made to condemn him upon accumulative Treaſon, none of the pretended crimes being Treaſon apart, and ſo could not be in the whole, if they had been proved, as they were not, and alſo judged him guilty of conſtructive Treaſon, (that is, of Levying War againſt the King) tho' it was only the commanding an Order of the Council-Board in Ireland, to be executed by a Serjeant at Arms; and three or four Soldiers, which was the conſtant practice of the Deputies there for a long time: To the which end, they having firſt preſented a Bill for this intent, to the Houſe of Commons, and finding there more Oppoſition than they expected, they cauſed a multitude of tumultuous perſons to come down to Weſtminſter, Armed with Swords and Staves, and to fill both the Palace-Yards, and all the approaches to both Houſes of Parliament, with Fury and Clamor, and to require Juſtice, ſpeedy Juſtice againſt the Earl of Strafford; and having by thoſe and other undue practices, obtained that Bill to paſs the Houſe of Commons, they cauſed the names of thoſe reſolute Gentlemen, who in a caſe of innocent Blood, had freely diſcharged their Conſciences, being Fifty nine, to be poſted up in ſeveral places about the Cities of London and Weſtminſter, and ſtiled them Staffordians, and Enemies to their Country, hoping thereby to deliver them up to the Fury of the People, whom they had endeavored to

incenſe againſt them. and then procured the ſaid Bill to be ſent up to the Houſe of Peers, where it having ſome time reſted under great deliberation; at laſt, in a time, when a great part of the Peers were abſent, by reaſon of the tumults, and many of thoſe who were preſent, proteſted againſt it, the ſaid Bill paſſed the Houſe of Peers: And at length His Majeſty, the late King Charl. I. of Glorious Memory, granted a Commiſſion for giving his Royal Aſſent thereunto, which nevertheleſs was done by his ſaid Majeſty, with exceeding great Sorrow then, and ever remembred by him with unexpreſſible grief of heart, and out of his Majeſties great Piety, he has publickly exprest it, when his own Sacred Life was taken away by the moſt deteſtable Traitors that ever were.

For all which Cauſes be it declared and Enacted by the Kings moſt Excellent Majeſty, by, and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons in this preſent Parliament Aſſembled, That the Act entituled, An Act for the Attainder of *Thomas* Earl of *Strafford* of High Treaſon, and all and every Clauſe and Article, and thing therein contained, being obtained as aforeſaid, is now hereby Repealed, Revoked, and Reverſed.

And to the end that Right be done to the memory of the deceaſed Earl of Strafford aforeſaid; Be it farther Enacted, That all Records and Proceedings of Parliament, relating to the ſaid Attainder, be wholly Cancelled, and taken off the File, or otherwiſe defaced, and obliterated, to the intent, the ſame may not be viſible in after ages, or brought into Example, to the preiudice of any perſon whatſoever.

Provided, That this Act ſhall not extend to the future queſtioning of any perſon or perſons, however concerned in this buſineſs, or who had any hand in the tumults, or diſorderly procuring the Act aforeſaid, any thing herein contain'd to the contrary thereof not withſtanding.

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